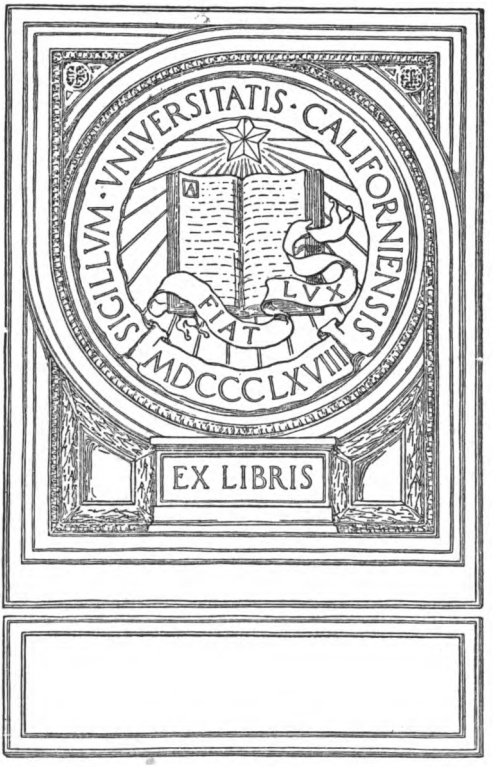
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THE NAZI BACKGROUND TO WAR

BY

Karl Loewenstein

NEW YORK

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1939

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To My Wife

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PREFACE

The manuscript of this study on the Third Reich, originally planned as a section of a more comprehensive presentation of Constitution and Politics in Germany since Bismarck, reached the publishers just on the day when the present European war broke out.

When the author went over the pages again, he discovered, surprising as it may seem, that they needed little adjustment to the situation as it exists in Germany under war conditions, except occasional revision of the tenses. In fact, the government of the Third Reich was a war government from its inception—so much so that the governmental instrumentalities and techniques were designed, to the least detail, to serve ultimately in the conduct of war. Long before the German armies invaded Poland, totalitarian war had been anticipated by totalitarian peace—if the period since 1933 can be called properly by that name. Thus, only a few touches had to be added in order to convey to the reader the most recent information on the political background of Germany at war.

It may be asked, and justly so, what qualifications an author brings to bear on the description of a governmental system of which he was an eye-witness only in its initial stages. The answer may be given by referring to the material used and the methods applied. In the first place, the main sources of information are the German Statute Book, the official declarations of leading men of the regime, and the interpretation administered to both by the juridical and political doctrine of National Socialism, as contained in treatises and monographs, law journals and textbooks. Of course, none of these German works of reference are up to the

full standards of scientific objectivity, the latter being a luxury not to be indulged in by those under the jurisdiction of a totalitarian regime. No German writer would be foolhardy enough to disclose, beyond official interpretation, the viscera of the political power-processes which exist under the cloak of what is termed in Germany constitutional law. Yet, as revelation of what the regime believes to be the reality of its existence, or at least of what it wants its subjects to believe, this source of information is the fulcrum of evaluation.

In the second place, by way of an antidote, the vast anti-Nazi literature was to be utilized, as a no less fertile source than the official material proper. Here the author was well on his guard against natural bias springing from emigré resentment which, incidentally, has been more deepened than mitigated lately. The author had access to a good deal of information stemming from the opposition inside Germany, though it came through agencies established abroad and, consequently, was much affected by emigré flavor. These sources yielded copious documentation when filtered through an essentially critical appraisal.

Lastly, and to a minor degree, reports on Nazi Germany by foreign observers were carefully consulted. Of these there is an abundance in view of the fascination of the topic and the willingness of the German authorities to welcome foreign students in Germany as potential propagandists of the regime. Most of such reports, whether sensational or sober, make good reading. Some of them, it is readily admitted, are able and realistic. However, very few—if any—penetrate deeply enough into the hidden layers of German irrationalism, of which the National Socialist system of government and law is so striking a reflection. Much heralded as is the simplicity of Nazi political organization, it is in actuality immensely complicated, intricate and elusive. Perhaps one must have participated actively in German legal and political life in order to disentangle realities from political semantics, so deeply embedded in the German character and so widely resorted to as a means of "escapism."

On these three sources, enumerated in the order of their importance, the selection of material and conclusions of this study are based. By relentless checking and counter-checking, by laboriously confronting official statements and institutions with interpretation by the opposite side, the author has striven to move as closely toward the objective truth on Nazi Germany as seems possible under present conditions.

Last but not least the author feels bound to record his deep gratitude that this book on the outstanding specimen of organized despotism in modern times could be written in a free country, by one of its free citizens.

KARL LOEWENSTEIN

Amherst College, October 10, 1939

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SECTION ONE

NATIONAL SOCIALISM AND THE WEIMAR REPUBLIC

CHAPTER I

THE RISE OF THE NATIONAL SOCIALIST MOVEMENT

The Third Reich a Creation of Hitler

Forever philosophers of history have argued whether the success of a political leader is attributable to favorable circumstances, or whether his action produces favorable circumstances conditional for his success. In the case of Adolf Hitler and the Third Reich, the answer is fairly obvious: Hitler created the National Socialist movement as an instrument of political power, and through this instrument he created the Third Reich. He made circumstances serve his ends. It was Hitler who as a master molded the sentimental traditions and emotional obsessions of the German bourgeoisie into the most refined and technically perfect system of political power, maintained through physical and mental coercion. In building first the party and, later through the party, the Third Reich, Hitler gave ample evidence of three qualities which individually and severally are the marks of the political leader. He excelled as an orator, as an organizer, and as a man endowed with an uncanny sense of timing—that is, of adjusting his actions to opportunities, and of being able to wait until he could act. He developed these talents during his long years of apprenticeship, and

knew how to maintain them during Germany's march to world power. The National Socialist Party and the Third Reich would never have arisen without Hitler.

Development of the National Socialist Party

The spectacular rise of the *Nationalsozialistische Deutsche Arbeiterpartei* (NSDAP) from a small group to the strongest party of the Weimar Republic has been often told. Three different stages of evolution are clearly discernible. The first reaches to the abortive putsch of 1923; the second, to the landslide of the party at the elections of September 1930; the third, to the seizure of power on January 30, 1933. At first the German National Socialist Workers Party was one among the myriad of small political debating conventicles which in the hectic years after the armistice sprang up all over Germany. Hitler, himself at that time a demobilized soldier and a sort of spy or agitator in the pay of the army, joined the group sometime early in 1919 as the seventh member. Through entirely novel methods of propaganda and organization, the party—styled a "movement" in order to advertise its fundamental difference from other merely political parties—soon attracted attention far beyond its numerical strength. Bavaria, still smarting from the shock of the farcical and short-lived Soviet republic of 1919, was at that time the center of anti-Marxian, anti-democratic, and violently nationalist tendencies. Police and officials of the reactionary government sheltered opponents of the Weimar Republic and political fugitives from justice. While the Bavarian government under Dr. von Kahr, at the height of the inflation and the desperation of the masses during the Ruhr occupation, was itself preparing a rebellion against the Reich government, Hitler, taken into confidence by the conspirators, impatiently staged a putsch within a putsch—the famous Beer-hall revolt of November 8/9, 1923. In a veritable comedy of betrayals and double crossings, the official rebellion dropped its ally and, under the single volley of scarcely more than a platoon of the Bavarian police, the first effort of

National Socialism to seize power by force ended ignominiously. On April 1, 1924, Hitler was sentenced to a mild term of honorable seclusion in the pleasant fortress of Landsberg, but was soon released. The party was outlawed. Hitler used his leisure in Landsberg well, and dictated to his friend and co-prisoner Rudolf Hess, a former student, now Deputy-Leader of the party, the first volume of the National Socialist Bible, *Mein Kampf*.

The moment when Hitler threw himself on the wet pavement to escape the bullets of the police was a turning point in his career. He realized that political power cannot be gained by revolutionary means if army and police remain loyal to the legitimate government. Political power could be won only by ballots and through "legal" methods. Henceforward his tactics were concentrated on building up a regular political party which, at the same time, should become the core of a political religion. A new technique of mass propaganda and mass emotionalism was evolved, fundamentally different from the amateurish practise of other political parties in attracting the masses. Yet after his release from the fortress it took him six years to become the undisputed leader of a mass party, and without the disaster of the world depression, which broke loose in Germany in 1930, he would never have succeeded. After the putsch the outlawed party was scarcely alive. Even after the ban had been lifted, the party failed to obtain a mass basis.[1] In March 1930 Dr. Bruening took over the Chancellorship as the personal confidant of the Reich President von Hindenburg. Less than six months later, by a landslide unprecedented in German

[1] The following tabulation shows the increase of votes and seats of the NSDAP from 1924 to 1933:

Election	*Seats*	*Votes*
May 4, 1924	7 *	(unknown)
December 7, 1924	14	907,000
May 5, 1928	12	810,000
September 14, 1930	107	6,409,000
July 31, 1932	230	13,779,000
November 6, 1932	196	11,737,000
March 5, 1933	288	17,277,000

* On the ticket of the combined "folkish parties," which obtained 32 seats.

parliamentary history, the NSDAP rose from 12 to 107 deputies in the Reichstag, from a small faction to the second strongest party.

Composition of the National Socialist Party

In order to evaluate the sudden emergence of the Nazis between the two elections of 1928—the climax of postwar prosperity in Germany and of Stresemann's success in bringing back Germany to the community of nations—and 1930, one must remember that in 1930 the world depression clamped down on Germany with its bank failures, falling prices, unemployment and suddenly spreading economic misery. In its early political career, the NSDAP was the political refuge for demobilized professional soldiers unable to adjust themselves to civilian life; for adventurers of fortune, social misfits, and cranks; for a good many of the white-collar proletariat of frustrated intellectuals and unemployed clerks —a strange motley of hooligans, criminals, and idealists, who formed the cadres into which, later on, the masses of voters were to flow. In the landslide of 1930 most of the new recruits endorsing the Swastika came from the lower middle classes, whose economic backbone had been broken by the inflation of 1923 and the deflation thereafter. With their savings, the slender roots of economic security protecting them from proletarization had been destroyed. The masses of "respectable" voters such as shopkeepers, artisans, clerks and unemployed, were drawn mostly from the bourgeois parties of the lower middle class, and from the nationalistic right parties. This stratum was enticed by the socialist as well as by the anti-socialist ingredients of Hitler's program. From the outset the party drew its strength from youth. But it was by a stroke of genius that Hitler succeeded, in the following years, in enlisting as well the moral and financial support of influential figures in industry and big business, who were attracted by the hostility of National Socialism towards organized labor and the trade unions. Since he was careful not to identify himself with feudal reaction, which he fought as violently as any other party of

the left, he could hold the support of the dispossessed masses. The army, secretly sneering at the uncouth upstart, maintained a benevolent neutrality towards a super-patriotic movement promising the restoration of military ascendancy. The party made, however, scanty inroads on organized socialism of both flavors, and none at all on the Catholic center, though many members of the Protestant clergy embraced the new gospel at an early date.

Causes for the Triumph of the National Socialist Party

The spectacular rise of the Nazi Party is due to various and divergent causes. In the first place, Hitler's magnetic personality cast its spell on a nation in which "educated" men had heretofore monopolized political leadership of the bourgeois classes. He knew how to instill into those with whom he came in personal contact a fanatical devotion and the spirit of sacrifice which distinguishes a political religion from a political party proper. Many were influenced by his oratorical talents. The Germans were not used to political rhetoric; they formed their political opinions by reading the press and reasoning among themselves, preferably over their beer-mugs. Perhaps the strongest inducement emanated from an entirely novel and unprecedented political technique. It inaugurated the emotional mechanism of mammoth mass meetings and public demonstrations staged with consummate skill, showmanship, and a deep insight into the psychic *lacunæ* of the democratic form of government, based on persuasion instead of emotion. His political offerings catered to every taste. Moreover, the party was organized on strictly military lines. From the beginning a party militia existed as body guard and stewards in meetings. This soon extended into a vast paramilitary organization for carrying violence into the streets and the assemblies of the other parties, for fortifying the spirit of its own adherents as well as for intimidating its opponents. The brown uniforms of the SA (*Sturmabteilung,* or Assault Guard) and the black military garb of the SS (*Schutzstaffel,* or Elite Guard), tolerated by the

republic in suicidal negligence,[2] became an ubiquitous sight. Unlike other political parties, which maintained skeleton organizations between elections and awakened only at election times, the NSDAP organized and propagandized without interruption, carrying its meetings and demonstrations into the smallest village and hamlet. Suddenly, in place of the rather idyllic party life of the past few years, a new militancy and fury swept over the nation, which, unprepared as it was, failed to mobilize resistance to this unprecedented onslaught. The printed as much as the spoken word was used as never before. A novel technique of tabloid emotionalism was invented. Oversimplification, distortion, and outright lies were not answerable by reasoned refutation. In the remarkable passage of his *Mein Kampf* dealing with the elements of political propaganda, Hitler gives all the recipes on which his sensational success was ultimately based. Writes Hitler: "The German has not the faintest idea of how a nation must be swindled if one wants to have masses of supporters." The tangible simplicity of the argument, boiled down to the minimum of intelligibility, convinced the mass mind. Oratory and the printed word were inflammatory, contradictory yet eloquent. The most popular weapons in the armory of emotionalism were attacks against Versailles, the "war-guilt lie," the "policy of fulfilment," playing up to the militaristic sentiments of the masses, and, most effective of all, rampant anti-Semitism for which Germany was ever the most fertile field. Anti-Semitism, aptly called the "socialism of fools," was admirably suited to focusing resentment on a scapegoat responsible for all evils of state, society, and the individual, and offered endless opportunities for variation.[3] In its organization, the NSDAP was patterned on the discipline of the

[2] Only in 1932 was an anti-uniform ordinance issued by the cabinet of Dr. Bruening, at the instance of the Minister of the Interior, General Groener; it was rescinded after a few weeks, and Groener lost his position.

[3] Hitler himself pretends to have discovered anti-Semitism in his years in Vienna, where the Christian Socialist party of Dr. Lueger and Schoenerer had practiced it. It is more likely that his hatred for the Jews is due to some personal reasons as yet unknown.

army, on command and obedience. In its propaganda it adopted what was considered the "American way" of advertisement, of Barnum and Bailey technique. It did all that the republic had failed to do in mobilizing symbolism of the flag (Swastika), hero-worship disguised as devotion to the leader, and enthusiasm for the cause. It set before the masses an objective worthy of sacrifice and promising rich spoils after the victory.

The Bid for Power, 1930–1933

During the third period of the incubation of the Third Reich, from the electoral victory of 1930 to the Chancellorship of Hitler on January 30, 1933, the movement increased its hold on the masses of the German voters. Hitler made various unsuccessful attempts to obtain control of the government by normal political means. In the election for the Reich Presidency (March 13/April 10, 1932) he failed to win, by a wide margin, against Hindenburg, supported by all parties except the Communists.[4] In addition, the NSDAP tried to capture as many as possible of the Laender parliaments and governments, but was unable to get control of any of the key states. Finally, the National Socialists became in the elections of July 31, 1932, the strongest party of the Reichstag (230 out of 608 seats) and raised the claim, justified in parliamentary usage, to the Chancellorship and the formation of the cabinet. Here begins the long series of backstage intrigues, double-crossings, and cheatings not yet fully revealed, which accompany the last months of the republic in agony. At first the Nationalist reaction tried to steal the thunder of the National Socialist competitors. The old man in the Reich Presidency wholeheartedly disliked the "Bohemian corporal." Hitler, on the other hand, held out tenaciously for the totality of power, and steadfastly refused

[4] First ballot: Hindenburg 18,651,000 votes 49.6%
Hitler 11,339,000 " 30.1
Second ballot: Hindenburg 19,360,000 " 53.
Hitler 13,418,000 " 36.8

participation in a coalition government to be formed with the Nationalists and the Catholic Center Party. But the "Barons' Cabinet" of von Papen called illegally into power after Dr. Bruening's dismissal in March 1932 frustrated all efforts. When the cabinet of von Papen, which controlled only 6% of the total of seats, became certain of being defeated by a vote of non-confidence, the Reichstag was again dissolved (September 6, 1933). The National Socialist Party was in the throes of the most serious crisis since 1923. The industrialists withheld financial support; the rank and file of the party as well as some of the leaders, among them Gregor Strasser, began to rebel against Hitler; the party was in full disintegration. Consequently the NSDAP suffered a severe setback at the elections. They declined from 230 to 196 seats, and from 37.4% to 33.1% of the total vote. But Hitler proved his mettle as The Leader. Twelve years he had patiently and laboriously worked his way to power; he was not to be cheated out of it by a compromise. Von Papen, master of doublecrossing, played for him with Hindenburg the part Lord Runciman played later in his peaceful conquest of Czechoslovakia. After von Papen's resignation, the clique around the senile Reich President had General von Schleicher, for a long time, as the exponent of the Reichswehr, the power behind the throne, appointed to the Chancellorship. Although von Schleicher had no parliamentary majority and had to rely, for carrying on the government, again on the emergency powers of the President, he had a none-too-narrow chance of saving the nation from National Socialism, if not from the Junker reaction. His idea was to bring together the army with the socialist trade unions, and perhaps also the socialist wing of the NSDAP under Strasser, strange bedfellows as they seemed to many. The zero hour of common danger united Nationalists and National Socialists, who had already been close allies against Dr. Bruening's government in the "Harzburg Front" of 1931. As far as events can be reconstructed with some degree of certainty, Hitler and von Papen formed an alliance at a meeting in the house of a Cologne banker on January 4, 1933. To

rid themselves of von Schleicher was none too difficult. When the government threatened to make capital of the unsavory scandal of spending the "Eastern Relief" money for private interests of the Junkers, the old Junker in the Presidency could easily be persuaded by his clique that the "Red General" was headed for "agrarian Bolshevism." The same trick had already been applied successfully in ousting Dr. Bruening. Moreover, the rumor was invented and allowed to spread that von Schleicher and the Reichswehr planned the arrest of Hitler, von Papen, the President's son Oscar, and even the President himself in order to set up a military dictatorship. Hindenburg himself probably had no clear notion of what was going on, but was finally won over to the previous arrangement between Hitler and von Papen. The hapless General von Schleicher was dismissed. On January 30, 1933, under delirious outbreaks of the Nazified masses, the Reich President appointed Hitler to the Chancellorship at the head of a cabinet of "National Concentration," in which the National Socialists and the Nationalists were to share power. The Third Reich had begun.

CHAPTER 2

THE ESTABLISHMENT OF THE THIRD REICH

The cabinet of "National Concentration" under Hitler as Reich Chancellor was appointed and constituted in conformity with the constitution and the German variety of the parliamentary system. Of its eleven members, only three were National Socialists; namely, Hitler, as Reich Chancellor; Dr. Frick, as Minister of the Interior; and, last but not least, Captain Hermann Goering, as Minister without portfolio and Commissioner for Air Communications—equally important, however, as Commissioner of the Interior for Prussia. Six Ministers were members of, or sympathizers with, the Nationalists; namely, Dr. Hugenberg (Economics and Agriculture), Dr. Guertner (Justice), Seldte (Labor, as leader of the nationalist organization of war veterans, the Steel Helmet), Elz von Ruebenach (Communications), Dr. von Schwerin-Krosigk (Finance), and von Papen as Vice-Chancellor and Prime Minister of Prussia. Without official party affiliation, but to be counted as Nationalists, were General von Blomberg (Defense Ministry) and von Neurath, a seasoned career diplomat in the Foreign Office. The lonely Nazis in the cabinet of Nationalist reactionaries seemed virtually "encircled"; moreover, the key-positions of the army and foreign affairs were held by what the Nationalist clique deemed "reliable" men.

But this shrewd scheme failed to reckon with the political genius of Hitler and the ruthlessness of Goering. Elaborate plans of the Nazis were held in readiness. Once more in keeping with German parliamentarism, the Reich President granted to this cabinet without a majority in the Reichstag a dissolution in order

to let the electorate decide on its tenure of office. At first the bourgeois parties and the Socialists were not disheartened; the Nazis had reached the possible peak of their voting strength of about 40% and could not expect to poll more. The election campaign of 1933 was a startling and breathtaking affair, which nobody who lived through it will easily forget. On February 4, the Reich government, under the signature of the President, issued an emergency ordinance [1] which subjected freedom of assembly and press to severe restrictions, aimed, as a circular letter of Goering unblushingly admitted, at the opposition parties alone. The free exercise of civil liberties, particularly essential in election times, was thus monopolized by the government parties. From the outset, the opposition was arbitrarily curbed in the use of press, assembly, and radio, while organized and legalized violence of the National Socialist hooligans against electioneering activities of the opposition was encouraged.

But official propaganda was not yet open terror. Even intimidation could not make the voter, once he had reached the privacy of the curtained polling booth, vote for the National Socialist ticket. Providence and Captain Goering intervened. On the morning of February 27, 1933, the stunned nation learned that on the preceding evening the Communists and Socialists had fired the Reichstag building and that the vigilance of Goering and his Prussian police had uncovered a widespread Marxist conspiracy. While the building was still in flames, Communist deputies of the Reichstag and the Prussian diet, and all other Communist functionaries the police could lay hands on, were arrested, together with scores of Socialists and Liberals on the following days. On February 28, 1933, Hindenburg set his signature to a new emergency ordinance "for the protection of people and state." [2] The decree suspended, by virtue of the emergency powers granted to the Reich President by the Weimar Constitution in the famous Article 48, the seven

[1] Ordinance of the Reich President "for the protection of the German people," Reichsgesetzblatt (hereafter abridged: RGB.) I, p. 35.

[2] RGB. I, p. 83.

fundamental liberties: freedom of person, of speech, of press, of assembly, of association, and of privacy of mails; and authorized confiscation of property without compensation and for undetermined purposes. This emergency ordinance, still in force today, may be duly considered as the Magna Charta of the concentration camp. Moreover, it introduced the death penalty for a number of common crimes; for attacks on the person of the Reich President, the members of the governments of the Reich and the Laender; for armed resistance; and for taking political hostages. This decree, of unheard-of severity, established in a nutshell dictatorial government, investing the government with unlimited powers against the opposition of whoever was considered an enemy of the regime. The rural classes especially—the farmer fears nothing more than fire—were swept off their feet and heavily endorsed the Nazi ticket. In addition, under the emergency decree, electoral freedom no longer existed. Intimidation had become terrorization and outright violence.

Behind this modern "Guy Fawkes" plot there was no real danger of a Communist insurrection, and not the slightest evidence of it was forthcoming afterwards. In the burning building of the Reichstag the police captured one van der Lubbe, who was put on trial before the Supreme Court in the autumn of 1933, together with Torgler, a leader of the Communist party of the Reichstag, and four foreign Communists picked up at random (among them George Dimitrioff, at present a leader of the Communist International in Moscow). Although conducted under outright pressure by the government and in violation of most of the provisions of the code of procedure, the trial ended with the acquittal of the four Communists and the death sentence for van der Lubbe only, who was executed. The intriguing mystery of the Reichstag fire can now be considered as solved, less through later revelations which may be apocryphal than in view of involuntary evidential facts revealed during the trial; the court, in criminal negligence, deliberately refused to follow the cues. It seems certain that a number of Goering's henchmen, most of whom were killed

off in the purge of June 1934, entered the building through a subterranean corridor from the adjacent home of the Reichstag President, and prepared the inflammatory material which the half-wit van der Lubbe, according to the instructions of the Nazis, ignited.

Reichstag Elections of March 5, 1933

The *coup* and its ingenious official motivation helped to boost the Hitler party ticket, but it failed to swing the election for the government. The elections were held on March 5, 1933, without visible violations of electoral honesty. The procedure was still orderly and secret, and no definite proof of tampering with the result in the official tabulation is available. In spite of the exploitation of the Reichstag fire and terrorization of the opposition, the government failed to obtain the hoped-for absolute majority. The National Socialists were, of course, by far the largest party, with 288 out of a total of 647 seats and 43.9% of the total vote.[8] Only in conjunction with the Nationalists, who polled 8% of the vote and obtained 32 seats, did the government have a slender margin above the absolute majority—namely, 340 out of 647 seats, or 51.9 of the total vote. In terms of the Weimar Constitution, then still in force, no constitutional amendment could be carried against the "constitutional" parties (Socialists, Catholics, and minor bourgeois parties) which, among them, obtained more

[8] The Nazis drew about one million votes from the Communists, who fell from 100 to 81 seats; they wiped out the "splinter" parties and attracted at least four millions of the habitual non-voters, which explains the extraordinarily high voting participation of 88.7%. The distribution of votes and seats is shown in the following tabulation of election results:

	Vote	*Percentage*	*Seats Obtained*
NSDAP	17,277,000	43.9	288
Nationalists	3,136,000	8.0	52
Center	4,424,000	11.2	74
Bavarian Catholics	1,076,000	2.7	18
Socialists	7,181,000	18.3	125 *
Communists	4,848,000	12.3	81
Others	1,401,000	3.6	9

* Including 5 Democrats.

than one-third, or 226 seats. It should be noted that by themselves the Nazis were still a minority party; the majority of the voters had rejected them.

On the following days all the German states (Laender) were "co-ordinated," by a routine procedure of staged demonstrations by the Nazified mob in the streets, by pressure and individual violence against the members of the government and officials, leading to the establishment of a local dictatorship by a party official, usually the *Gauleiter* (District Leader). No resistance to the illegal and revolutionary transfer of power was offered. The degenerate bureaucracy of the Socialists gave way; not a single trade-union house dared armed resistance; no socialist martyr died in open battle for the cause—a phenomenon reminiscent of the disappearance without resistance of the ruling class of Imperial Germany when the revolution broke in November 1918. This ignominious surrender left the deepest impression on the masses, and could not fail to furnish a potent argument in justification of the National Socialist revolution.

Although it may be argued whether, under these circumstances, the seizure of power by the National Socialists was a mere *coup d'état* or a genuine revolution, there is no doubt in the mind of the contemporary world that the advent of the Third Reich inaugurated a revolution of the first magnitude, comparable in fact only to the French Revolution, to which it has been appropriately linked by the Nazi doctrine itself as the counter-revolution to the ideas of 1789 and Western civilization as a whole. In methods and contents the Nazi revolution is patterned strikingly on the Bolshevik revolution of 1917. 1933 piles 1917 on top of 1789.

The Enabling Act of March 24, 1933

During the weeks after their seizure of power, the National Socialists, following blueprints held in readiness, unleashed the first wave of violence and terror. It was intended to eliminate political enemies of the regime as well as to impress the irresistibility of the

new order on the German nation which, disunited as it had been politically for many generations, was united in preferring the peaceful processes of the traditional rule of law to political power through violence and terror. The agencies of public opinion were coordinated (*gleichgeschaltet*); law enforcement authorities were brought under Nazi control by substituting reliable partisans for republican officials. The *Rechtsstaat* disappeared, and the will of a minority became the law of the land. The people, staggered by the hurricane-like fury of events, submitted in apathy.

Thus the stage was set for legislative legalization of the regime by the Reichstag. When the Reichstag convened (March 21), the 81 Communist deputies failed to receive an "invitation"; those not assassinated were in concentration camps, in hiding, or in exile. The election of Captain Goering, a member of the government, to the office of Speaker of the Reichstag marked the end of the separation of executive and legislative powers.

The Enabling Act (*Ermächtigungsgesetz*) of March 24, 1933, styled an "Act for relieving the distress of nation and Reich," [4] involved in more than one aspect an amendment to the constitution. Since the Weimar Constitution was formally still in force, the requirements of Article 76 had to be fulfilled in that a majority of two-thirds of all members had to be present, and that at least two-thirds of those present had to vote in favor of the bill. In view of the parliamentary situation, the passage of the bill hinged on the support of the Catholic Center Party. As disorganized as all other parties, the Center submitted. The bill was carried by 441 to 94 votes of the Socialists.[5] In addition, those parties which helped the government coalition obtain the required figure of two-thirds were prevented from giving a free and unbiased vote. The mob unleashed by the government ruled the capital; armed Brownshirts filled the halls of the parliament; and the vote was taken in an indescribable atmosphere of terrorization and coercion.

[4] RGB. I, p. 141.

[5] As mentioned before, the 81 Communists and a number (26) of Socialist deputies were barred from voting.

The Enabling Act, acclaimed by the National Socialist doctrine as the first "organic statute of the Third Reich," is the pivotal constitutional document of the regime. At first declared in force until April 1, 1937, it was twice, on January 30, 1937, and on January 30, 1939, continued by the Reichstag.[6] The latter prolongation provided that the statute should remain in force for another four years, beginning with the election of the Reichstag which passed the continuation act (April 10, 1938) and ending five years after its first session; that is, May 10, 1943. Until the enactment of a new constitution by the Third Reich, of which there is no prospect, the Enabling Act should be considered as the constitutional basis and legal foundation of the National Socialist dictatorship. In brief, the Enabling Act embodies the fundamental principle of dictatorship which constitutes the clear borderline between this specific form of government and democratic, or constitutional, government—namely, the abolition of the separation of legislative and executive powers in favor of a concentration of all powers in the hands of the executive, the government. Moreover, exercise of all powers and functions by the government alone is unlimited in time and without any constitutional limitations whatsoever.

The governmental machinery set up by the Act introduces a new type of legislation, supplementing and superseding the legislative powers of the Reichstag, the so-called government decrees (*Regierungsgesetz*), issued without further formalities or requirements, by the Reich government (Art. 1). Moreover—and this is in fact the legal key which opened the door for the subsequent complete reconstruction of the constitutional system— "the statutes decreed by the government may deviate from the constitution with the reservation that they should not affect the institutions of the Reichstag and the Federal Council" (Art. 2, sentence 1). In addition, it is explicitly stipulated that "the powers of the Reich President are to remain intact" (Art. 2, sentence 2). None of these solemn guarantees was maintained; the Federal Council was abolished in March 1934; and the office of Reich President, after the death of

[6] RGB. I, p. 105 (1937) and RGB. I, p. 95 (1939).

von Hindenburg, was fused with the office of the "Fuehrer" and Reich Chancellor on August 1, 1934.[7] Be it noted that the regular type of legislation, that of statutes passed by the Reichstag, was not legally precluded. Subsequently, in isolated instances, the Reichstag was convened to pass on acts introduced by the government if their importance from the viewpoint of internal or foreign policy rendered such a formal procedure desirable. On the whole, however, legislation by government decree has become the rule, and legislative participation of the Reichstag the rare exception.

This amazingly simple machinery of government recommended itself, by contrast to the elaborate cog-wheel system of democratic checks and balances of the Weimar order, to a people weary of parliamentary complications and endless deadlocks. By a few printed lines in the statute book—behind which, it is well to remember, stood the unbridled violence of the organized mob of the party—the government not only monopolized the regular legislative function but also seized the totality of the amending power.

It is today perhaps a moot problem to argue about the legality of the "Enabling Act." Political power is a matter of might and not of right and it is commonly recognized that a successful revolution is the basis for the new legal order. Yet, since National Socialism after the abortive putsch of 1923 made the "legal" conquest of power a cornerstone of its propaganda, it should be emphasized, if only in passing, that the whole procedure through which the "Enabling Act" reached the patient statute book, is beset with a number of crude illegalities without which the crucial two-thirds majority demanded by the Weimar Constitution for constitutional amendments would never have been obtained.

The Validity of the Weimar Constitution under the Third Reich

Although never formally abolished, the Weimar Constitution, to all practical intents and purposes, is dead beyond resurrection.

[7] See *infra*, p. 25.

Since the government, by simple decree, may establish new constitutional law, institutions and provisions of the Weimar Constitution in conflict with the new tenets of the Third Reich have been materially abrogated. Occasionally organs and institutions of the Weimar charter, such as the Federal Council and the Reich Economic Council in 1934, have been formally abolished. All institutions and provisions deemed inconsistent with the National Socialist principle of the totalitarian leadership state have ceased to retain legal or practical force. The judge in applying the new law has to decide whether a statutory provision of the former constitutional system not yet formally repealed is in conflict with the new order. The new law, as the binding expression of the Leader's will, claims precedence of right over all other rules of law, whatever their source. Rules passed prior to the advent of the Third Reich the judge is bound to apply and interpret in conformity with the "spirit of National Socialism"—whatever this may mean. In the first years some difficulties arose in connection with the fundamental rights enshrined in the second part of the Weimar Constitution. The most important among them were already suspended on the basis of the Emergency Ordinance of the Reich President of February 28, 1933.[8] This temporary expedient has never been repealed, although the regime has stabilized itself in the meantime. But most of the other guaranteed rights were equally overruled by implication, through government decrees in contradiction to all fundamental requirements of the rule of law and due process accepted by Western constitutionalism. Violations of the freedom of press, free speech, assembly, political organization, equality before the law, and what Germans called the "vested rights" of certain groups such as churches or public officials, have become so common and so frequent that at present they often pass unnoticed. The Germans seem to have completely forgotten that individual or group rights ever existed and were protected from the interference of the state by an elaborate system of due process of law.

[8] See *supra*, p. 11.

CHAPTER 3

THE CONSOLIDATION OF THE REGIME (MARCH 1933 TO AUGUST 1934)

The political evolution of the Third Reich may conveniently be divided into two periods of unequal length. The first, devoted to the consolidation of power after a victory whose swiftness may have surprised even the leaders, stretches from the "legal" conquest of power to the fusion of the offices of Reich President and Reich Chancellor after the death of von Hindenburg (August 1, 1934). By that time the contour of the future constitutional structure of the Third Reich was drawn in definite lines. Later additions, even through so-called "organic" statutes, have changed little of the frame of government. During this period of internal consolidation the conduct of foreign relations was cautious—aggressive only in words for home consumption, not in actions. Foreign policies were determined by the lack of stability of internal conditions.

The second period takes shape roughly in 1935/1936, when the regime, having entrenched firmly its control over the nation, began to turn internal dynamism against the outside world, at first for liberation from the remaining fetters of the Versailles treaty, under the slogan of "international equality" or "racial self-determination"; in due course for the sake of European hegemony as prelude to world control, now under the slogan of *"Lebensraum"* ("living space"). During this period, which began with the occupation of the demilitarized zone of the Rhineland (March 1936), internal policies, now fully mastered by the new governmental technique, are determined completely by the exigencies of foreign

policies. Consolidation of power, preceding necessarily the bid for world power as predicted in *Mein Kampf*, had become so unshakable that the Third Reich was able to live through the periods of international tension preceding the outbreak of the war in September 1939 without visible strain of its internal structure.

Measures for the Protection of the Regime

After the enactment of the Enabling Act, the fight against "enemies of the state," identified with enemies of the victorious party, could be taken up "legally." By a series of additions to criminal law, acts of actual resistance or of organizing or expressing political opposition are exposed to drastic punishment. Special Tribunals are established and the death penalty is threatened for a number of common crimes; confiscation of property of "enemies of the state" is permissible; at first directed mainly against Communists and Socialists, it was extended to anyone opposing the regime by labeling him a Communist or Marxist. German nationals beyond the reach of physical violence of the Reich are deprived, by simple administrative act, of their nationality and their property if their activities are deemed harmful to the interests of the regime.[1] Finally, a statute, delicately styled "for the safeguarding of the peace of law," [2] imposes the death penalty on those venturing attacks on state or party officials, and for anti-state propaganda even if committed abroad. Other acts harmful to the regime, including the malicious spreading of news considered detrimental to the prestige of the Third Reich (now known in Germany under the name of *Heimtückegesetz*) are punishable by penal servitude or prison. Simultaneously with these measures for spreading terror through the statute book, illegal arrests without trial, indefinite detention in police prisons, jails and concentration camps, and an elaborate system of organized violence became integral institutions for the protection of the regime.

[1] Law of July 14, 1933 (RGB. I, p. 480).
[2] Of October 13, 1933 (RGB. I, p. 723).

Dissolution of Parties and the Establishment of the One-Party State

Rapidly the old parties were "liquidated." The Communist party was outlawed in March; the Socialists were eliminated in June. The Center and the smaller bourgeois parties, with the generous help of the Secret Police, committed suicide by voluntary self-dissolution. The same lot befell, in June 1933, the Nationalist party, the partner of the Nazis in the government coalition. Since the seizure of power, the party had been in complete disintegration and had lost all influence whatsoever in the government. The "Steel Helmet," the only semi-military organization besides SA and SS, was forcibly incorporated into the SA. A living corpse, Dr. Hugenberg resigned from the cabinet June 27, 1933; other members of the Nationalist party whose services were deemed indispensable at that time (Guertner, Schwerin-Krosigk) continued for the time being as "non-partisan experts." After an interlude of only a few months, Hitler had finally reached "totality of power," and those who had helped him into the saddle received what they deserved. With irresistible logic, political events headed for the one-party state, as in Russia, Italy, and Turkey, finally established by the law "against the formation of political parties." [3] The reconstitution of dissolved, or formation of new, political parties is treated as treason.

Coordination (*Gleichschaltung*) of Public Life

The elimination of political opponents from the civil service and public life in general offered a more difficult problem. Many of them, especially judges and higher administrative officials, could not be replaced at once. An elaborate and intricate legislation, beginning with the now famous law styled by a misnomer "on the restoration of the professional civil service," [4] served two parallel

[3] Law of July 14, 1933 (RGB. I, p. 679).
[4] Law of April 7, 1933 (RGB. I, p. 175).

objectives: to eliminate "Non-Aryans"—as Jews were politely called at that time—from the civil service, including the liberal professions, the educational and state-controlled institutions; and to purify the civil service of undesirable members, Socialists, Liberals, or all persons defined in general terms as "politically unreliable." A very large number were dismissed, in many cases without pension; and the statute continued as a weapon against recalcitrants up to 1937, when its main provisions were included in the codification of the civil service on Nazi lines in the Public Official Act.[5] No resistance whatever was offered, the choice for the public official being only "coordination" or starvation. By the same devices of pressure, intimidation, coercion, and outright violence, all other fields of public activity, such as press, stage, education, and cultural activities, were brought under Nazi control. Few people could afford to prefer non-conformity to "professional death" by exclusion from the compulsory organizations of all trades and professions. At least in its broad contour the totalitarian state becomes visible, an ordering of society in which all expressions and activities of private life are subordinated to the tyranny of the state and the party.[6]

The Termination of the Revolution and the "Purge" of June 1934

During the first months of the National Socialist revolution, full reign was given to the Nazi mob, organized into the strictly militarized Brownshirts and the National Socialist Shop Cell organizations, the spearhead of the regime in plants and factories. The field day allowed to the unemployed proletarian and the student with the party badge meant, in the first place, publicly encouraged violence against Jews (National boycott of April 1, 1933), against trade-union officials, and in general against all

[5] Law of January 26, 1937 (RGB. I, p. 39).

[6] For details of the economic and cultural organization under the so-called "estates," see *infra*, p. 135 ff.

people who had made themselves obnoxious during the past years. On May 2, offices and property of the trade unions were seized under the leadership of Dr. Ley and taken over by the huge Labor organization of the regime, the Labor Front.[7] But in July 1933, Hitler suddenly declared that the revolution had come to its end. Clearly realizing that continued interference with the normal processes of economic life and public administration could not fail to produce disastrous consequences for the stability of the regime, he announced that business and administration must be left to the experts. High-handed acts of individuals or groups against business other than Jewish discontinued. By this master stroke Hitler allayed the fears of big business that the movement would take a socialist turn.

Yet the regime was headed for a final showdown between the capitalist wing of the party and the "anti-capitalistic yearning" of the rank and file. The economic program of the government—amateurish, half-hearted, and without definite orientation towards the promised new social stratification—had failed to improve the conditions of the masses. The left wing, increased by an influx of Communists, embracing the "old fighters," organized in the SA under one of Hitler's oldest friends, Captain Roehm, and the dispossessed lower middle classes, felt that Hitler and the party bosses, living in luxury, had "betrayed" the revolution. It is difficult to state with certainty how widespread restlessness and dissatisfaction were. In the twilight zone of intrigues and plotting, of whispering and rumors, evidently an underground struggle between the bourgeois and the radical sections of the party was under way. It crystallized in the demand of the SA to be incorporated in the Reichswehr, which the latter opposed with determination. Hitler threw in his lot with the army and suddenly acted.

The "purge" of June 30, 1934, together with the Reichstag fire of 1933 and the pogroms of November 1938, belongs to the most spectacular events in the internal history of the Third Reich. Under

[7] See *infra*, p. 138 ff.

the pretext that a dangerous conspiracy for the overthrow of the government was imminent, on June 30 and July 1, 1934, a massacre of high-ranking party officials and other enemies of the regime conveniently linked to the conspiracy took place. It had no parallel in Europe outside Russia since the Paris Commune of 1871. Government by firing squad was successfully introduced in Germany. Private accounts were settled everywhere. The number of persons killed without trial or even the pretext of guilt is estimated conservatively at more than one thousand. Among those brutally murdered or shot were von Schleicher and his wife, Roehm, Gregor Strasser, high Reichswehr officers, Dr. von Kahr, dozens of leading commanders of the SA—the latter without exception more than deserving of their fate—, and numerous wholly innocent persons. Von Papen escaped only by protection of the army. That an actual plot against Hitler existed was never proved and is very unlikely.

The "purge," occurring in a land known for its habits of law and order, horrified the world. Its effect on Germany can scarcely be overestimated. The power of the SA was permanently broken and had lost its revolutionary sting. Hitler and the army command had become close allies, from which sprang in due course his domination of the Reichswehr, prerequisite for the future gamble in foreign politics. In divesting himself of the influences of revolutionary socialism, he convinced big business and the high bureaucracy that National Socialism would be national and not socialistic. He proved to friend and foe that he was capable of acting with energy and ruthlessness. If disloyal to his friends who had helped him into power, he was loyal to his people. In his speech before the Reichstag on July 13, 1934, he claimed that he had assumed the powers of the "Supreme Law Lord of the Nation" (*Oberster Gerichtsherr*); freed from all liberalistic concepts of justice, he had saved the state. A government decree was inscribed in the statute book declaring the acts committed "justified emergency measures." The conscience of the public inside Germany was so dulled that the massacre enhanced his prestige

immensely. Thereafter his undisputed domination over the life and death of his subjects was never challenged. Later plots, however, were given no publicity but were dealt with in secrecy by the Secret Police and the Star Chamber courts.

Death of Hindenburg and the Fusion of Reich Presidency and Chancellorship

On August 1, 1934, at the age of 87, Hindenburg died on his estate in Neudeck, which grim popular humor described as "the one-man concentration camp in Germany." Both personally and politically the old man, probably wholly unconscious of what was going on, had been completely eclipsed by Hitler and his cabinet. Until his demise, however, the finishing touches could not be applied to the final structure of the Third Reich. Although speculation was ripe as to the person of his successor, Hitler again found the simplest and most logical solution. The government issued, by way of decree, the Act "On the head of the State of the German Reich." [8] The office of the Reich President was merged with that of the Reich Chancellor; all powers hitherto exercised by the President were conferred on the "Fuehrer" and Reich Chancellor. Hitler could not tolerate constitutional limitations connected with a separate Reich President, even if the incumbent were his puppet. Dictatorship tends to the utmost concentration of powers in the hands of the dictator alone.[9] The army, and subsequently all public officials, took the oath of allegiance to the person of Hitler instead of to an abstract document, such as the constitution which no longer existed. Hitler himself was henceforward the living constitution. On August 19, 1934, the German people confirmed

[8] Law of August 1, 1934 (RGB. I, p. 747).

[9] A few days after Hindenburg's death a mysterious document, allegedly embodying his "testament" was discovered under equally mysterious circumstances, according to which Hindenburg nominated Hitler as his successor, a sort of "adoption" well known under Roman Caesarism. The document is designedly omitted in National Socialist textbooks; possibly it was too obvious a forgery of the Propaganda Ministry.

the succession by a plebiscite which, however, had merely declaratory character, as the succession act had been in force since August 1. In spite of unprecedented propaganda and an election technique discouraging opposition, resentment was so strong that seven out of 45 million voters registered their protest by negative or invalidated ballots.[10] It was the first and last plebiscite Hitler dared, or cared, to take on internal policies of the regime.

With the fusion of Reich Chancellorship and Reich Presidency, the Third Reich was constitutionally perfected. Modern despotism was normalized in terms of constitutional law.

[10] See *infra*, p. 51.

SECTION TWO

THE GOVERNMENTAL STRUCTURE OF THE THIRD REICH

CHAPTER 1

POSITION AND FUNCTION OF THE "FUEHRER"

The Third Reich, a Government Without a Written Constitution

When trying to describe and to appraise a modern dictatorship one has to be on guard against personal bias as well as against the ambiguity and obscurity of the textual material on which the conclusions are based. Political institutions may bear such familiar appellations as "parliament," "plebiscite," "statute," "law," "judge"; but when applied by a dictatorship they are apt to impart connotations widely different from those customary in a democracy. Moreover, legal enactments or official declarations in a democracy usually mean what they try to express; they can be accepted at their face value and in good faith. Contrariwise, in a dictatorship government statements and statutory enactments frequently are intentionally equivocal or outright dishonest for opportunistic reasons for which dictatorial semantics have coined the all-embracing term "dynamic." Thus the apparent simplicity and straightforwardness of the dictatorial organization of government is more often than not only the outward cover behind which move immensely complicated power-processes, inaccessible to rationalization by the habitual methods of construction and interpretation.

The evaluation of dictatorial politics, therefore, remains at best tentative and of approximate correctness only.

Another serious difficulty in presenting the governmental structure of Hitler's Germany consists in the absence of a written constitution. Although, in the first years of the regime, plans for formulating the governmental system in the frame of a constitutional instrument were occasionally referred to, it is unlikely that they will ever materialize. By its very nature, dictatorial government defies fixation within the frame of an instrument of government. Even if such a constitution conferred upon the Leader the most comprehensive powers, the fact alone that they were determined in writing would constitute an intrinsic constitutional limitation inconsistent with the purpose and scope of dictatorial power.

Even without a fixed fundamental charter, the structural organization of the Third Reich presents itself as an all-encompassing and jointless system of constitutional law which is admirably suited for serving the totalitarian ambitions of the regime. Foreign observers, however, must be careful in their interpretation of what constitutional "law" means in a fundamentally "dynamic" pattern of governmental technique. When the will of one mortal man, expressed either in definite commands, statutes, or in more vague preferences, and even "hunches," is the supreme law of the land, with no constitutional limitation whatever, the political scientist accustomed to democratic notions of constitutional government may well be inclined to call the "law" of the Third Reich mere legalized arbitrariness—legalized by the sole fact that the man whose will is supreme has at the moment the power to enforce his will.

Hitler, the "Fuehrer"

Presented in a nutshell, all powers of the state and the nation are concentrated in the hands of Adolf Hitler as the "Fuehrer" [1]

[1] The term *"Fuehrer,"* an imitation of the Italian "Duce," has idiomatically in German a rather trite, commonplace, and even slightly ludicrous connotation; it is of course alien to German constitutional tradition.

from whom all powers radiate and in whom all powers converge. The Third Reich resembles a pyramid balanced on its apex. Hitler himself, in many of his addresses, justifies his being endowed with absolute and supreme powers by the fact of his "mission" for the German people, and the achievements—such as destroying the decadent "system" of the Weimar Republic, wiping out the Versailles Treaty, creating "Greater Germany"—he has contributed to German history and to the welfare of the nation. His followers, deeply impressed by the rise of an unknown soldier of the World War to Napoleonic heights as future master of Europe, though equally enthralled by the mythological and irrational notion of his "mission," attribute his achievements as much to his supernatural gifts as to the undefinable though omnipresent qualities of leadership. His book *Mein Kampf*, the Bible of the Third Reich although somewhat outmoded lately, as well as all his utterances, are expressions of the unchallengeable, infallible, apostolic, and magisterial authority of "the greatest German of all times." It is impossible for the non-believer to argue within the limits of reason with the faithful who believe in these facts with the strength, devotion, and fanaticism of a religious creed. Perhaps one comes closest to an understanding of the singular mental disposition of Hitler himself and of his followers who endorse the political doctrines of the regime without reservation, by evaluating the Third Reich less in terms of political science than of political theology. It is German romanticism and mysticism, encased in a superior psychological technique and raised to the level of a political religion. It is, of course, very difficult to judge how genuine and deep-reaching this irrational foundation of the Third Reich is in reality, or how much of it is attributable to compulsory indoctrination or to an acceptance of the existing situation as a *quid pro quo*. But it may help to explain why, according to National Socialist doctrine, the powers of the "Fuehrer" are limitless, all-embracing, without constitutional or other limitations, and altogether impervious to rationalization.

From here access may be sought to the notion of responsibility

said to be inherent in the leadership principle and the qualities of leadership. Hitler never tires of repeating that he is responsible to the people, and that the source of his power is the people and the people alone.[2] But this is merely rhetoric, a lip-service to the democratic ingredients of our modern civilization from which not even a dictatorship can disentangle itself. Factually, the "Fuehrer" is responsible to his conscience alone, and only in an indirect, transcendental sense to the German nation or history. Anyone who would try to translate this mythical responsibility into practice would soon see the executioner's axe over his head.

Supreme Leadership Power (*Fuehrergewalt*)

National Socialist doctrine pretends to believe in the existence of a mystical energy emanating from the "Fuehrer" which welds together the various activities of the state and fuses state, movement, and people into one inseparable unit. This ultimate and final source of power, called "Supreme Leadership Power" (*Fuehrergewalt*) appears to nonbelievers rather as an effort to legalize the spell or magnetism ascribed to Hitler than as a moral justification of sovereignty of the kind inherent, for example, in monarchical rule "by the grace of God." This is in fact the core of the political theory of the regime, constantly quoted and referred to, the closest approach to constitutional deification of a mortal being. It is, in short, secularized theology. Hitler is considered absolutely sovereign; nothing is beyond his jurisdiction or, for that matter, beyond his intellectual or moral capabilities. He embodies unity of will and command. State and leader cannot be separated, because he is the state and the state is the product and object of his will. From this theoretical conception—of fundamental importance in practical politics—it is clear that there can be no room in the Third Reich for the customary pluralism of state functions, elaborated as the separation of powers by Locke, Montesquieu, and modern constitutionalism.

[2] See *infra*, p. 46 on the relations between "Fuehrer" and nation (*Volk*).

Moreover, the "Fuehrer" integrates, and therefore is in supreme control of the tripartite division in "people" (*Volk*), "movement" (*Bewegung*), and "state" (*Staat*)—one of the basic and recurrent slogans of the doctrine. From this trinity are derived more concretely his powers as symbol and idol of the people, as leader of the National Socialist Party, and as holder of the highest offices of the state and the government as Reich President and Reich Chancellor. He exercises all powers attributed individually to each of these institutions. Residues of the origin of his powers are still visible in the technical arrangement for the discharge of his functions, for which he has three different bureaus or staffs; namely, the President's Chancellery (operated, until recently, by Dr. Meissner, who had served in this capacity Ebert and Hindenburg with equally unflinching loyalty), the Reichs Chancellery (headed by Dr. H. H. Lammers, now a Minister without portfolio and an uncommonly able official of the old civil service), and finally the Chancellery of the party, the Headquarters of the NSDAP. Although powers and functions of the "Fuehrer" are "indivisible and inseparable," for technical reasons three different bureaus are serving the "Fuehrer."

As mentioned before, Hitler fused, after Hindenburg's death, the office of the Reich President with that of the Reich Chancellor. At the same time he decreed [8] that in official and unofficial contacts the title "Reich President" should be omitted; he was to be addressed as "Fuehrer and Reich Chancellor." In July 1939 he dropped also the title of "Reich Chancellor," to be referred to henceforward simply as "Der Fuehrer."

Origin and Termination of the Office of the "Fuehrer"

The position of Hitler as "Fuehrer" is grounded, if one tries to understand it in terms of constitutional law, in his appointment by Hindenburg to the office of Reich Chancellor; in the Enabling

[8] By Edict (*Erlass*) of the Reich Chancellor of August 2, 1934 (RGB. I, p. 747).

Acts of 1933, 1937, and 1939, which extended his powers to 1943 for the time being; and finally in the autocratic assumption of the Reich Presidency in 1934. Factually he is "Fuehrer" of the German people for life, although this is nowhere mentioned in so many words in a legal document. He is neither successor to Hindenburg nor successor to the Chancellors of the republic. He was given to his people by an inscrutable act of Providence. Termination of his functions is possible only by voluntary resignation, death, or revolution. He may appoint a Deputy-Leader.[4] For a long time, no Deputy-Leader was chosen, possibly because such an appointment might give to the holder a claim or title to the succession of Hitler, Rudolf Hess being only Deputy-Leader of the NSDAP. The National Socialist doctrine held that, as an unwritten maxim of constitutional law, the future leader of the party will succeed Hitler as "Fuehrer." It was only after the invasion of Poland by the German armies had begun, on September 1, 1939, that Hitler, about to leave for the "front" as the "First Soldier of the Reich," made known his intentions as to the person of his successor.[5]

Hitler's Actual Participation in Government

Very little is known about the actual exercise of these absolute powers by Hitler. In what, precisely, does this elusive element of leadership consist? Evidently Hitler's activities have little in common with the routine functions of government. It is certain that he is not at all interested in matters of civil administration. His capricious living habits, of which a good deal is known, seem to indicate that he is as incapable of desk work as his predecessor,

[4] Succession Act of August 1, 1934; paragraph 1, sentence 2.

[5] It should be noted that the question of succession is no longer to be answered only by historical experience, which seems to indicate that no dictatorial regime has survived its founder. The technique of the one-party state has changed the situation considerably, and a number of contemporary dictatorships were continued after the exit of their founders (Russia, Poland, Turkey, and Austria). See *infra*, p. 173.

Kaiser Wilhelm II. His main interest, besides hobbies such as architecture, movies and music,[6] is foreign policy, in accordance with his conviction of his "mission" to make Germany a world power. In this capacity he has certainly developed rather unique abilities; some people speak of his "sixth sense" in explaining his uncanny talent of timing and calculating his moves on the psychology of his opponents. Be that as it may—our sources are altogether inadequate—, he must be accessible to human influences, as all human beings are, although he may be impervious to advice. It is exactly this incalculable element of human influences and power relations which makes dictatorship, in spite of the striking simplicity of its structural arrangements, the most complicated and irrational form of government.

[6] Occasionally the melodramatic style of the Wagnerian operas is related to the melodramatic conduct of politics in the Third Reich by Hitler. This is perhaps a better approach than the rather unfortunate application to National Socialism of pseudo-scientific terms borrowed from Freudian psychoanalysis. The "Fuehrer" used frequently to attend the operas of Wagner. It seems, however, that lately he prefers the lighter vein of "The Merry Widow" and of American dancers to the heavier nourishment of the Wagnerian music drama.

CHAPTER 2

THE REICH CABINET (*REICHSREGIERUNG*)

Even the Superman and Godlike "Fuehrer" is unable to perform alone all functions emanating from "Supreme Leadership Power" when he tries to translate inspired planning for the future into realities. He needs agents, servants, collaborators, and executors of his will. This task is performed, among others by the Reich cabinet or Reich government, composed of the Reich Ministers.

Position of the Cabinet

The members of the cabinet are without exception the personal confidants of the "Fuehrer." Here the universal assumption that the "Fuehrer" and his people are joined together by the same spiritual bond of fealty and devotion which existed historically between the "Lord" and his "retainers" or "followers," is intensified in that the members of the cabinet are said to be imbued with a fanatical devotion to the person and the mission of the "Fuehrer." They are responsible to him, and to him alone, since ministerial responsibility, with the abolition of the government-controlling functions of the parliament, has changed its meaning. Interdependence is reflected in the institution of the co-signature (*Mitzeichnung*), by which the individual Minister, in adding his signature to that of Hitler on a government decree, assumes personal responsibility towards Hitler. In their relations towards the "Fuehrer," the members of the cabinet are his subordinates, not the colleagues of the Reich Chancellor as under the Weimar Constitution. The frame of cooperation established in the Third Reich is

reminiscent of the monocratic organization of the government under the Bismarckian constitution, revealing again the force of traditional trends in German political life. On the other hand, the Ministers, described by the National Socialist doctrine as "genuine subleaders," are independent within the fields of their assigned jurisdiction. They act on their own responsibility, subject only to the ultimate responsibility towards the "Fuehrer." He appoints, dismisses, instructs, and directs the members of the government at his discretion. Cabinet meetings have become rare. The irregular private life of the "Fuehrer" does not permit them. Consultation between Hitler and his Ministers takes mostly the form of audiences granted in Berlin or at his mountain retreat on the Obersalzberg. Majority decisions of the cabinet no longer exist, differences of opinion being decided by the "Fuehrer." Within the cabinet, the opinions and decisions of the Deputy-Leader of the party, Hess, are considered as second in importance only to those of the "Fuehrer" himself.

The Reich Cabinet in Operation

In accordance with the specific needs of the regime and the transformation of the Reich into a unitary state,[1] several new Ministries were created; namely, that for Propaganda and Public Enlightenment (1933), Air (1933), Church Affairs (1934), and Science and Education (1934). The Ministry of Economics and Agriculture was separated into two offices (1933). At present (autumn, 1939) there are thirteen Ministries: Interior (Frick), Foreign Affairs (von Ribbentrop), Defense (von Keitel), Air (Goering), Justice (Guertner), Finance (von Schwerin-Krosigk), Economics (Funk), Propaganda (Goebbels), Nutrition and Agriculture (Darré), Labor (Seldte), Science and Education (Rust), Church Affairs (Kerrl), and Post and Communications (Dorpmueller). In addition the cabinet embraces at present four Ministers without portfolio: Hess, Deputy-Leader of the NSDAP; Frank,

[1] See *infra*, p. 54 ff.

as Commissioner of Justice for the reform of the legal system and, appointed in September 1939, head of the civilian administration of the conquered territories of Poland; Lammers, as head of the bureau of the Reich Chancellery; Seyss-Inquart, onetime closest friend of the Austrian Chancellor Schuschnigg, afterwards, for a short time, Austrian Federal Chancellor, then Reich Regent for the *Ostmark* (formerly Austria) and, after abolition of that office, appointed Minister without portfolio in May 1939. Participation of the Chief of Staff of the SA in the cabinet was abolished after the assassination of Roehm in the purge of June 1934. Other high officials participate in deliberations of the cabinet if their sphere of jurisdiction is involved.[2]

A survey of the government's personnel reveals the striking fact that in almost seven years of power no more than nineteen men have held office in thirteen regular departments. Nine departments are still presided over by the same men who obtained the positions at the beginning, a record equalled by no other contemporary state.[3] All members of the Reich government, since the enforced resignation of Hugenberg in June 1933, are members of the Nazi party, those originally not belonging to the party having been appointed "honorary members." Only a few of the men have had previous training in government service or administration;[4]

[2] The Leader of the SA and Commander of Police Himmler, whom many consider the most powerful man of the regime; the Reich Labor Leader Ley, controlling the Labor Front; the head of the Foreign Division (*Auslandsorganisation*) Bohle; and the Prussian Minister of Finance, the only Prussian office which at present is not conducted in personal union with the corresponding Reich office. The office of the Reich Vice-Chancellor, held by von Papen till the purge of June 1934, has not been revived.

[3] The greatest turn-over is shown in the Ministry of Economics, which was held by four men (Hugenberg, Schmitt, Schacht, and Funk). Changes took place also in the Foreign Affairs Ministry (Ribbentrop in the place of Neurath, now "Protector" of Bohemia and Moravia); Defense (in which von Blomberg was succeeded by von Keitel [February 1938] in the shakeup preceding the invasion of Austria). Only two men (Schmitt and Elz von Ruebenach, a Catholic) were permitted to resign voluntarily; Roehm was assassinated; von Papen was demoted after the purge.

[4] Von Neurath, Frick, Lammers, Dorpmueller, von Schwerin-Krosigk, Schacht, Guertner, and the generals serving in the Defense Ministry.

all others are men with tested party loyalty instead of expert qualifications for service. All the key-positions are held by so-called "old fighters," seasoned in the struggle for power.

It would be surprising indeed if a nation forever laboring under a shortage of able leaders had suddenly produced a large number of top-ranking men. It should not be overlooked that endless complaints are reported about the lack of definite jurisdiction; overlapping of competence and functions; red tape; waste of money and energy; jealousy and intrigues between the departments and the men heading them, all entangled in a ruthless competition for the favor of the master; and clandestine maneuvers carried on in the antechamber instead of through regular and orderly constitutional processes. Yet no unbiased observer can deny that the regime, under this rather haphazard organization at the top, has accomplished momentous tasks which, at least in the light of Nazi eulogies, are not equalled by any other contemporary government. They were made possible only by the governmental technique of despotism, under the dynamic will power of an exceptional personality. Whether the Reich government is a privileged oligarchy operating under an exemplary team spirit, or a "gang" which derives its apparent cohesion from a common fear of the day of reckoning, matters little in evaluating so extraordinary a political phenomenon.

CHAPTER 3

THE FUNCTIONS OF THE REICH GOVERNMENT

Concentration Instead of Separation of Powers

The "Fuehrer," together with his subordinates in the cabinet, constitutes a new political entity, called *Reichsleitung*. It embraces, concentrated in the hands of one group under Hitler, the sum-total of all executive, legislative, administrative, and, if need be, also judicial functions, which are still assigned to different agencies of the state merely for practical reasons. Conduct of policies in their entirety is left to the "Fuehrer," for whom the customary division of labor among the various Ministries is only a technical device; at any time he may assign special tasks to the heads of the departments.

Only for the sake of a convenient survey, therefore, may the powers of the "Fuehrer" be grouped along the following lines: he exercises all powers which belonged formerly to the President of the republic, including the Supreme Command of the armed forces; the power to dissolve the Reichstag; to appoint and dismiss the Reich Ministers and officials; the privilege of mercy, extended now to the power of quashing pending criminal proceedings; the power to remodel government agencies and departments (called *Organisationshoheit*). Finally, the power to represent the Reich internationally has been extended to the supreme conduct of foreign affairs and occupies from the outset the center of Hitler's personal activities.

In the second place, the "Fuehrer" exercises new powers derived from the organic acts of the regime itself, such as the appointment

and dismissal of the governors of the Laender (Reich Regents) and the ministers and public officials serving in the Laender as Reich officials.[1] Together with his collaborators in the cabinet, he issues government decrees as the main type of legislation in the Third Reich, which may even contain new constitutional law. He controls, directs, and supervises the entire administration of Reich and Laender.

Finally, the "Fuehrer" is endowed with those powers which spring from the National Socialist mythology, in particular from the function of being the leader of the National Socialist Party. Although, during the last years, the position of the party in the state has been regularized to a large extent by incorporating the party into the state,[2] a good many of these powers of the "Fuehrer," by virtue of their theological or mystical implications, are incapable of being integrated by definable institutions or legislative arrangements. Though they defy adequate translation into terms intelligible to non-believers, they may be summarized as follows: The "Fuehrer" is "the bearer of the legal will of the racial community," and, as such, the ultimate source and justification of legislation and policies. Since he is, in addition, "addressee of the duty of fealty" (*Treupflicht*), all "racial comrades" are under the moral and legal obligation to be loyal to him and his "mission" for the German people. All are responsible to him, while he is responsible to nobody except his conscience and his "mission."

This summary of the "Fuehrer's" position may be supplemented by further elaboration to show how some of these powers are exercised in actual practice.

(1) Legislation

(a) Ordinary Legislation

Legislation, though remaining the fundamental manifestation of government, is in the leadership-state the expression of the will

[1] See *infra*, p. 56.
[2] See *infra*, p. 70 ff.

of the Leader who monopolizes the will of the state and expresses the wishes of the people. Under the Third Reich, three types of legislation are theoretically recognized: (a) statutes passed by the Reichstag in conformity with the Weimar Constitution, thus far not repealed; (b) statutes accepted by the people by way of plebiscite; [3] (c) statutes enacted by way of a government decree by the Reich government (*Regierungsgesetz*) according to the Enabling Act of March 24, 1933. In practice, only the Reich government legislates.[4] Legislative initiative belongs exclusively to the Reich cabinet. The people do not participate in the process of legislation except when called on by the government in the plebiscite procedure. Attempts to initiate legislation from below would be punished as treason. The cabinet drafts legislation by government decree and submits it to the "Fuehrer." His decision creates the law.

(b) Legislation Amending the "Constitution"

The customary distinction between ordinary legislation and constitutional amendment no longer exists. The Enabling Act of March 24, 1933, had empowered the Reich government to amend the Weimar Constitution by government decree, with the sole restriction that the "institutions" of the Reichstag and the Federal Council and the powers of the Reich President (Article 2, sentences 1 and 2) must be kept intact. By the Reconstruction Act, the second of the "organic" statutes of the new regime,[5] a new Reichstag, elected in November 1933 on the one-party ticket of the National Socialist Party, unanimously conferred upon the cabinet the plenitude of the amending power without any limitations, thus demolishing the last residues of the constitutional guarantees of the Enabling Act. Article 4 declares in unequivocal

[3] See Law on plebiscites of July 13, 1933 (RGB. I, p. 479).

[4] On the statutes passed by the Reichstag see *infra*, p. 49, note 6; the only statute submitted merely for confirmation to the people by plebiscite was the Succession Act of August 1, 1934.

[5] *Gesetz über den Neuaufbau des Reichs*, of January 30, 1934 (RGB. I, p. 75).

terms: "The government of the Reich may enact new constitutional law." Henceforward the amending process became identical with the ordinary legislative procedure, both being exercised by simple government decree.

(2) Conduct of Foreign Policy

Authoritarian government is incompatible also with participation of the people or their representatives in the conduct of foreign affairs. The elaborate provisions of the Weimar Constitution which tried to guarantee to the people a share in the shaping of their destiny were thrown overboard by the regime. The "Fuehrer" alone makes all decisions referring to foreign relations. He negotiates and concludes treaties and alliances, and he denounces them according to his discretion. Hitler conducts foreign relations by way of personal negotiations with foreign statesmen who call on him, or through his confidant Ribbentrop, or through the regular channels of the completely coordinated diplomatic personnel, and frequently also through personal emissaries fulfilling special tasks under instructions of the "Fuehrer." Moreover, Hitler is the master over war and peace.[6] Thus one man alone, trusting his mission, or his stars, or the "voices" guiding him, has power over life and death in our civilization. This fact, more than anything else, reveals the danger of one-man government without constitutional limitations. In the eyes of his followers and many Germans otherwise not fully endorsing the regime, Hitler has justified such paramount powers by his achievements as "aggrandizer" of the realm and creator of "Greater Germany."

[6] It is true that the provision of Art. 45, alinea 2, of the Weimar Constitution: "Declaration of war and conclusion of peace are dependent on the passing of a statute of the Reich" was not formally abolished. In attacking Poland Hitler jumped easily over this legal hurdle. On September 1, 1939, that is on the morning his armies had invaded the Polish frontiers, he called a meeting of the Reichstag which jubilantly endorsed his decision. Moreover, since the war against Poland was officially considered only as a "punitive" or "police" expedition, a formal declaration of war was dispensed with.

(3) Supreme Command of the Armed Forces

Ascendancy of the political leadership of the government over the army was the touchstone of political power in the German past. Parliamentary control of the military establishment, though one of the main objectives of liberal constitutionalism under the Weimar Republic, was never fully accomplished. Here Hitler put the clock back even far behind the time of Bismarck. Following on the heels of the old Field Marshal's death, the army, officers and men, took the oath of loyalty to the person of Hitler himself, to whom the powers of the Reich President as Supreme Commander of the armed forces had passed by the Succession Act. At least formally, the army is bound again in allegiance to the person of the "Fuehrer" as it was bound to the person of the monarch in the dynastic period. In 1935, by the Law "on the structure of the armed forces," [7] the first open blow against Versailles, and by the subsequent Army Act,[8] Hitler made himself Supreme Commander of the Armed Forces (*Oberster Befehlshaber der Wehrmacht*). Under his instructions the supreme command is exercised by the Reich War Minister. In turn, the War Minister is the superior officer of the three branches of the army, the navy, and the air force.

This arrangement of the powers of military command, envisaged for peacetime, seems to have been transformed, with the outbreak of the war, into an even more direct and intimate relationship between Hitler, as the "Supreme War Lord" in the fullest sense of the term, and his highest military *amanuensis,* General von Brauchitsch. Though definite evidence is still lacking, it is more likely than not that the "Fuehrer," the *ci-devant* corporal in the World War, now takes an active hand both in shaping the general military strategy of the war and in influencing specific tactical moves.

[7] *Gesetz über den Aufbau der Wehrmacht,* of March 6, 1935 (RGB. I, p. 375).
[8] *Wehrgesetz,* of May 21, 1935 (RGB. I, p. 609).

To have bent the army command to his will and to have coordinated, even without complete Nazification of the higher ranks, this most effective instrument of power is perhaps one of the most conspicuous achievements of Hitler, all the more striking since the army, pillar of German national tradition and perhaps the most original expression of national corporate spirit, has tenaciously resisted full integration in, and absorption by, National Socialism. This is for various reasons. In the first place, the army, in view of its social structure, resented infiltration of partisans without education in the Prussian military spirit; the corps of officers was recruited, under the republic, mostly from the formerly ruling classes of the nobility and higher bourgeoisie, the rank and file from the conservative peasant stock. In the second place, the leading army generals refused to make the *Reichswehr,* successfully entrenched under the republic in "neutrality" towards party politics, an instrument of party politics of the National Socialist flavor. Finally, the trained technicians in the army command feared, perhaps justly, the spirit of the adventurers and gamblers they believed to be in control of the state. When the *Reichswehr* command stood behind Hitler in the purge of June 30, 1934, it was as much a victory of the army over the party as of Hitler over the allegedly impending "Second Revolution."

And yet the generals were won over to Hitler's bold strategy, which leads Germany on the path to world power. Until the fateful summer of 1939, Hitler proved right in calculating on the apathy and disunity of the French and English governments. The army leaders objected to the planned occupation of the demilitarized zone of the Rhineland in March 1936. The change in the High Command prior to the invasion of Austria (February 1938), accomplished smoothly though with discreet help by the Secret Police, was the prelude to the annexation of Austria (March 1938), another striking success of the "Fuehrer" in challenging Europe with impunity. Hereafter no resistance by the army generals against his supremacy in shaping military decisions was recorded.

Hitler was able to crown his efforts to make the army an instrument of Nazi politics by breaking down the social aloofness of the officers corps from the party.[9]

Effective coordination of the armed forces with the aims of the Third Reich may have disappointed many who counted, more in wishful thinking than on the basis of realities, on the eventual conflict between army command and political leadership of the party. Besides the fact that the army has always unflinchingly supported the powers that be, militarization of the entire nation brought for the army unparalleled ascendancy. Never before (the World War not excepted) has the army been so completely in control of civilian life as today. Through Hitler's political and diplomatic genius the army has received more than its due in promotion, influence, and fully restored social prestige.

For those who had followed with realistic attention the relations between the regime and the military leaders, it was, therefore, no surprise that the army command, once Hitler's diplomacy had dispelled the nightmare of another war on two fronts, threw itself into the conduct of the war with traditional loyalty.[10] For the customary efficiency of the German military machine is testified to by the brilliant campaign in Poland, in which the fifth strongest military power in Europe was finished off within less than one month. Yet it is certainly too early for a definite statement as to the future relations between the regime and its military leaders. The more hazards Hitler's moves involve, the more the weight of the army must increase. This is the inexorable law of warfare. The German General Staff, some of the older members of which may continue to resent infiltration of Nazi propaganda among

[9] The plan announced in January 1939 envisaged pre- and post-service training of all able-bodied men by Storm Troopers of the SA. It amounted in practice to indoctrination of the officers on reserve with Nazi spirit.

[10] The mysterious death of General von Fritsch, allegedly killed in action before Warsaw, appears more as a confirmation of than a contradiction to the general attitude of the army commanders. Von Fritsch, prior to his dismissal in connection with the army shake-up preceding the annexation of Austria, was considered as the ranking strategist of the General Staff.

the rank and file, and the meddling of amateurs in purely military matters, will not relax in its close watch of the Pretorian guard of the regime, the SS under Himmler, by now a full-sized army itself, and will also watch the trend of public opinion among the masses. It may well be that the General Staff has premonitions of a crucial conflict if the layman in political control should arrogate unto himself full control of the military conduct of the war against the advice of the experts. Moreover, a general victorious on the battlefield may prove a more formidable competitor for popular acclaim than all the satraps and henchmen together.

CHAPTER 4

POLITICAL MANIFESTATIONS OF THE PEOPLE

The Third Reich as an "Ennobled" Democracy

National Socialist doctrine has devoted much pains to proving, both for home consumption and for the world at large, that the Third Reich is a democracy, and an "ennobled" democracy at that. Nothing is more resented than the slur of being called a dictatorship or an autocracy. Through its most prominent spokesmen the regime describes itself as a *"volksgeführte Demokratie."* That is: Everything for the people, nothing by the people, and nothing through the people. Although such assertions imply a high tribute to the idea of democracy, it sounds perplexing to foreign observers who are struck by its profoundly anti-democratic and authoritarian character. Reconciliation of the democratic idea and the leadership principle is accomplished by a quaint perversion of the term "democracy" and its adjustment to the semantics of National Socialism. In brief, the people—*Volk*—are no longer the pluralistic aggregate of the inhabitants of the territory, nor the people organized politically as the electorate of liberal doctrine, but something permanent, lasting, supernatural, a mystical entity; real, beyond the existing totality of all inhabitants, the *Volk* has an "objective existence," different from and irrespective of accidental subjective trends and volitions of the people living today or at a given moment in history. It cannot be seen; it can only be felt or believed. Only the "Fuehrer," by virtue of his supernatural qualities and the intrinsic strength of his "mission," is able and qualified to express the real or "objective" will of the people. Since

there must be complete identity between the will of the "Fuehrer" and the will of the people, the people's will is considered erroneous and invalid if it fails to coincide with the "Fuehrer's" will. As the people do not know how to decide, the "Fuehrer" decides for them. The doctrine exerts itself in elaborating that the "Fuehrer's" motives in epitomizing the real "consciousness of the people" are never selfish, arbitrary, or subjective. He reveals to the people their subconscious will. He "incarnates" the nation. Hence Germany is a genuine democracy. If, therefore, unanimity of popular manifestations emerges from elections and plebiscites, it is only the proof of the identity of the will of the "Fuehrer" and his people. Force, of course, has no place in producing the unanimity of the popular adhesion to the "Fuehrer's" will, at least according to the doctrine of the regime. These deductions reveal once more National Socialism as a political religion, and the governmental system of the Third Reich as a secularized theology. One is struck by the blasphemous resemblance of such doctrines of deification to the Christian gospel. Deification of the leader, for the sake of making dictatorship palatable to the people as "ennobled" democracy, is certainly as much a postulate as a practical necessity upon which the regime stands or falls.

The Reichstag

Be that as it may, the foregoing elucidation of the National Socialist concept of democracy guards against ascribing to electoral processes in the Third Reich any of the implications commonly connected with them in genuinely democratic states. Elections arranged by the regime serve merely as manifestations of the homogeneity of the "Fuehrer's" and the people's political will.

Consequently, in a state under the leadership principle the parliament ceases to be an independent organ of legislation. The Reichstag has become an instrument of dictatorship destined, in the main, to serve as a mouthpiece or sounding board for official declarations on the part of the "Fuehrer." No discussion is de-

manded, expected, or permitted.[1] An assemblage of party appointees listens silently or clamorously, as the case may be, to the declarations of the "Fuehrer" and unanimously ratifies, in military obedience to the command, the bills submitted by him on rare occasions.[2]

Universal, equal, secret, and direct suffrage as of the republic is nominally still in force. Voters are all Germans of the age of 20 or over, if they are German or "of racially similar blood." [3] Jews and Jewish "mixed offspring" [4] are excluded from voting; for members of the armed forces the suffrage is in abeyance. Under the system of proportional representation inherited from Weimar, one deputy for every 60,000 voters is provided. To Germans living abroad free transportation home or the hospitality of German ships has been offered for voting on the high seas. To the existing 35 electoral districts new ones were added after the annexation of Austria and the Sudetenland. German nationals living in the Protectorate of Bohemia and Moravia are also entitled to vote; in the meantime Hitler, without going through the motions of an election, has appointed their representatives.

Political pressure of the party has in fact introduced compulsory voting. Registration reaches the highest degree of accuracy. Absence from the polls is officially considered opposition to the regime and dealt with accordingly. Participation in the poll is exceedingly high, and comes close to 100%. Consequently the number of deputies rose from 661 in November 1933 to 813 in April 1938.

Since the enforced dissolution of all other political parties, the NSDAP has the monopoly of running candidates in an election.

[1] Even the Standing Orders have been canceled; the President of the Reichstag, the ubiquitous Herr Goering, was empowered to handle the procedure according to his discretion. He dispensed with the three "readings" of the bill.

[2] The Reichstag meets when convened in the old Kroll opera house. The interior of the Reichstag building proper has not been restored since the fire; it is preserved as a visible sign of Bolshevik "destructiveness."

[3] Law of March 7, 1936 (RGB. I, p. 133).

[4] On these novel and bewildering terms see *infra*, p. 112.

The selection of party candidates is left exclusively to the discretion of the National Party Manager, who happens to be Minister of the Interior, in collaboration with Reich leaders of the NSDAP and the district party leaders. Almost all members of the Reichstag are party members; a hand-picked number of non-partisans [5] join the party as "guests." The names of the candidates are not known to the voter beforehand; in fact he would be little interested in them. He is presented with a ticket of the party, headed by Adolf Hitler, and marks it "Yes," as told by propaganda and party officials "assisting" him at the polling station. For once, one agrees with the doctrine, which describes the situation neatly thus: "The Reichstag is today a representation proposed by the NSDAP and confirmed by the people through plebiscite."

The Reichstag in Action

The Reichstag is summoned only rarely. Altogether, less than fifteen meetings within almost seven years have taken place. Votes are taken by "acclamation," that is, by silent acceptance or by the members standing up. Committees no longer operate. Yet the 813 deputies, most of whom hold other lucrative offices in party and state, draw their regular monthly salary of six hundred marks ($240 at par). Legislative activity is even less than the number of meetings would indicate. Only seven acts have been passed by the Reichstag.[6] The many hundreds of other statutes marking the rather hectic legislation of recent years have been passed by government decree.

In spite of its rubber-stamp character, the Reichstag has been dissolved by Hitler and re-elected no less than four times within seven

[5] At the election of March 29, 1936, 18 among 741.

[6] Enabling Act of 1933; Continuation Acts of 1937 and 1939; Reconstruction Act of January 30, 1934 (RGB. I, p. 75), incidentally the only bill which was initiated, at the request of the government, by the Reich Regents and Minister Presidents of the *Laender* who were members of the Reichstag; and the three so-called Nuremberg Acts of September 16, 1935 (RGB. I, pp. 1146, 1147). See *infra*, p. 112.

years. The first election occurred on March 5, 1933, the last opportunity for the various parties to participate. The second election, in the same year on November 12, served as a demonstration of national unity when Germany left the League of Nations, while incidentally ridding the government of the slender restrictions of the Enabling Act. The third election, on March 29, 1936, followed the breach of the Locarno Treaty by remilitarization of the Rhineland. The fourth election, of April 10, 1938, ratified both in Austria and in Germany the annexation of Austria.[7] Dissolutions and elections are considered acts of "political mobilization"; they serve the welcome purpose of self-glorification, emotional excitement, and propaganda stagecraft which are the elixir of a "dynamic" regime. The occasion is always a well chosen point of foreign policy in which the regime can count on support even from the dissenters, and it is duly exploited also for advertising "complete homogeneity of Fuehrer and people" in internal policies. The German taxpayer values this loudspeaker arrangement at about ten million marks a year.

Election statistics are of little value and therefore of little interest. The percentage of "yes" votes in the higher brackets of 90 is a foregone conclusion. Only in the first election of November 1933 and in the only plebiscite on internal policies (on the assumption of the powers of the Reich President by Hitler on August 19, 1934) was opposition reflected in considerable minorities through "no" votes, invalidated ballot papers, and by abstentions which at that time could still be practised on a large scale.[8]

Plebiscites

Elections for the Reichstag are no longer free decisions on the persons of the representatives; they are plebiscites for (or, theoretically, against) the regime; the customary distinction between a vote for an assembly and the popular decision on a factual issue

[7] Elections for the Sudetenland took place on December 5, 1938; 98.9% of the voters endorsed the only presented ticket of the NSDAP.

[8] On the election process, see *infra*, p. 52.

is obliterated. Yet, in addition, the Third Reich possesses a regular method of plebiscite (*Volksbefragung*) proper. It is also a signification of the "true," "unadulterated," and "ennobled" democracy. Its only purpose is that of demonstrating to the German people, and possibly to the world, unanimous endorsement of the governmental policy and implicitly of the regime at large. By no means do such plebiscites confer upon the people the right to decide issues. A plebiscite under the Third Reich is not a legislative act, although the Plebiscite Act of 1933[9] states that "plebiscites may be taken also on statutes." The government may ask the people whether or not they consent to a measure "intended" by the government. Although the act prescribes that the plebiscite ought to precede the measure, thus far all three plebiscites have been held after the step in question was taken. An adverse vote was automatically precluded. Only afterwards do the voters confirm what the government has already done; in view of its merely declaratory nature, even an adverse result would not change the policy the government has already adopted. It serves to demonstrate "the identity between the objective popular conviction personified in the leader and the subjective popular conviction living in the members of the nation." The simple majority of votes decides the issue, even if the measure submitted amends the constitution.

The first plebiscite, taken on November 12, 1933, in conjunction with an election for the Reichstag, was to endorse the policy of the government leading to the withdrawal from the League of Nations. The second plebiscite, of August 19, 1934, involved the Succession Act and has been thus far the only popular vote on an issue of internal policies. The third plebiscite was held on April 10, 1938, both in Austria and Germany, to ratify the preceding annexation of the *Ostmark*. The percentage of favorable votes for the three plebiscites was, respectively: 93.1%, 84.2%, and 99.57%.[10]

[9] Law of July 14, 1933 (RGB. I, p. 497).

[10] Calculations differ as to whether abstentions and invalidated ballot papers are counted for or against the issue.

Voting Practices

The actual manipulation of the voting procedure by the authorities was at first a subject of much anxiety among the voters and of speculation among neutral observers. Still deluded by the election practices of the republic, under which the voter could record unharmed his opposition in the privacy of the polling booth, many believed that the ballot paper was a device for expressing disagreement. Clearly recognizing the dangers inherent in an honest election process, the regime took great care to minimize eventual opposition. In the first place national issues were chosen which would be endorsed even by opponents of the regime proper. The formulation of the question on the ballot paper was skillfully suggestive. In the later elections or plebiscites the government resorted unblushingly to the cruder methods of intimidation, open coercion, and outright falsification of the election results. In particular, arbitrary interpretation of invalidated ballot papers—lately the only feasible means of registering disapproval—and flagrant breach of the secrecy of the poll were commonly resorted to in order to raise the percentage of popular consent to the desired figure. While the voting was open, tabulation of election results was strictly secret. The local returning officers and the electoral agencies of the districts recorded just the figures desired by the Propaganda Ministry, and a rather amusing competition between local authorities in boosting the figures without robbing them of their face value of truth took place. Needless to say, the pressure of the propaganda machine, geared to the highest pitch, helped to stampede public opinion. But even the docile Germans seem to have become aware of the intrinsic value of a vote stripped of its democratic ingredients and offering merely the empty motions through which each voter went, knowing that it did not matter how he voted.

Support of the Regime by the People

It is difficult to gauge the actual adherence of the nation to the regime. As will be shown in more detail later, each class of the people has its specific burdens and complaints. None is blessed by unmitigated happiness. But, heavy as were the exactions and privations imposed upon the masses and upon the different classes of the people, the vigilance of the Secret Police and the might of the armed forces at its disposal have thus far prevented sullen grumblings and sporadic restlessness from developing into anything resembling organized disobedience or outright resistance. For those who prefer a formula it may be said that perhaps some twenty per cent are sold to the regime for life and death: the profiteers, the jobholders, the pensioners, the beneficiaries, and the genuine enthusiasts. Perhaps another ten per cent are the implacable enemies of the Third Reich, silenced for the time being, but biding their time. This latter class may even be more numerous since the beginning of the war, and it is likely to increase while the war is in progress. But, apart from these two categories of political activists who are probably willing to do something for their political convictions, the vast majority of the people, as everywhere, allow themselves to be carried along by events. They are the masses which shout "Hosannah!" today and "Crucify him!" tomorrow, as the die is cast for or against the regime. But no internal insurrection has occurred and no revolution is likely to occur except as the consequence of a lost war.

CHAPTER 5

REICH AND LAENDER: GERMANY'S TRANSFORMATION INTO A UNITARY STATE

The End of German Federalism

Next to the substitution of the totalitarian single-party state for the multiple parliamentary state, perhaps the most conspicuous development under the Third Reich consists in the transformation of the federal into the unitary and centralized state. Objectively seen, this change represents that achievement of the regime which is most likely to be permanent, unless the present war ends in a dismemberment of the Reich, whether imposed by the victors or corresponding to a genuine demand of the defeated people. Beyond doubt, the administrative unification of the Reich was delayed by the intrinsic laws of German dynastic history. Grave doubts, however, exist as to whether the sociological stratification of the German people justified the head-long plunge into rigid centralization which deliberately neglected the religious diversities and tribal peculiarities of the nation. Rigid centralization, however, meets the necessities of dictatorship, which is bound to dominate the territory without intermediary institutions.

The momentous transformation was accomplished within less than one year. The First Act "for coordinating the Laender and the Reich" (March 1933)[1] was aimed mainly at breaking down the existing political differences within the various Laender. The political structure of the Laender was assimilated into that of the Reich. Most of the Laender passed appropriate Enabling Acts,

[1] Law of March 31, 1933 (RGB. I, p. 153).

handing over complete powers to the Nazified governments. New elections for the Laender diets were no longer permitted. The Second Act "for coordinating the Laender and the Reich" (April 1933) [2] brought the innovation of the Reich Regent (*Reichsstatthalter*), or State Governor, to be appointed by the Reich President, on the advice of the Reich Chancellor. On the whole, he functioned as a sort of state governor appointed by the Reich.[3] The Reich Regents, as subordinates of the "Fuehrer," represented the interests of the Reich, not of the Laender; and were to guaranty political unity within the Land and political conformity with the Reich.

Reconstruction Act of 1934

In spite of these changes, the dualism between Reich and Laender, which was among the main causes of the fall of the republic, failed to disappear. Sectional spirit persisted—so much so that some of the Laender, although subjected to the uniformity of the one-party technique, preserved to a considerable degree the character of politically individualized units. Thus the complete elimination of the Laender as quasi-independent political entities became inevitable, lest the traditional federalism should transcend the frame of the single-party state. This huge step was taken in the Reconstruction Act of 1934,[4] the second "organic" act of the Third Reich. The sovereign powers of the states were transferred to the Reich, while the governments of the states were reduced to mere agencies of the Reich government operating on the territory of the Land. The result is that the Laender are only provincial subdivisions of the Reich, and that the Reich is, at present, to all intents and purposes, a unitary state. The Reich Regents are subordinated to the Minister of the Interior; the governments are converted into bureaus of the Reich; the officials of the Laender, including the members of the Laender governments, are henceforward officials

[2] Law of April 7, 1933 (RGB. I, p. 173).
[3] On position and function of the Reich Regents see *infra*, p. 56.
[4] *Gesetz zum Neuaufbau des Reichs*, of January 30, 1934 (RGB. I, p. 75).

of the Reich. Almost all powers of the Laender are transferred to the central authorities. In consonance with these deep-reaching structural changes, the customary institution of federalism, the Federal Council, became obsolete and was formally abolished.[5]

Position of the Reich Regents

The final solution brought the Reich Regents Act of 1935, the third of the "organic" statutes of the Third Reich.[6] It eliminated the last remnants of separate statehood of the Laender. The Regent, heretofore subordinated to the Reich Minister of the Interior, was integrated fully as a normal agency into the Reich administration, and was bound to accept instructions from the various Reich Ministers acting within the jurisdiction of their individual departments (Paragraph 3). On the whole, this move was equivalent to a degradation of the Regents. Although measured by the standards of personal prestige on equal footing with the Reich Ministers themselves, the Regent is nothing more than a political organ of the Reich, acting for the territory of the former Land and subject to direct orders of the Reich government. Appointed and dismissed by the "Fuehrer" (Paragraph 9, alinea 1), he is no longer an official of the Land for which he acts. He represents Reich interests towards the Land, and not *vice versa.* His main function is that of adjusting the political and administrative life of his district to the general policies of the Reich (Paragraph 1, alinea 2)—a function not very dissimilar from, on a much smaller scale, that of the French prefect in the *département.* He is the veritable political boss of the district. His general administrative functions are very limited, though still wide enough to create considerable overlapping with the concurrent powers of the Reich administration exercised by other Reich agencies within the Land. In their present status, the Reich Regents function as intermediary agents between the central and the local administra-

[5] Law of February 14, 1934 (RGB. I, p. 89).

[6] *Reichsstatthaltergesetz,* of January 30, 1935 (RGB. I, p. 65).

tions. Considering the loss of political power and actual influence, they are more a sort of buffer and relay between the provinces and the capital than a center of independent action.

Today eleven Laender, or districts of the "old" Reich, have a Regent; the division still reflects much of the dynastic structure of the former states.[7] Many of them are not large enough to justify a Regent of their own, but some of Hitler's old cronies had to be rewarded. To these should be added seven Reich Regents acting in Austria and one in the Sudetenland, while the party boss for the city and territory of Danzig is distinguished, for the time being, by the more exalted title of "Head of the State."

One might just as well admit that the present position of the Reich Regents is still utterly hybrid and incongruous. The explanation lies in the imponderables of the political personnel of the regime. The nominally exalted office of the Regent was created and maintained in order to gratify the ambitions of some of the "old fighters" whose loyalty towards the "Fuehrer" had to be rewarded by an especially fat piece of the spoils. Often the local party satrap had so deeply entrenched his influence and hold on the area that he simply could not be demoted. Today the Reich Regents are able to pull the strings with the Ministers in Berlin and even the inner circle of the almighty Leader much better than their restricted administrative powers might indicate.

The Present Position of the Laender

For all administrative purposes, what once was Bavaria, Saxony, or Hamburg, is now only one of the territorial subdivisions of the unitary Reich, all of which are equally subjected to the pressure of the one-party state and its strictly centralized ad-

[7] The "Fuehrer" established Regencies for the following Laender: (The city in brackets is the capital). Bavaria (Munich); Saxony (Dresden); Wuerttemberg (Stuttgart); Baden (Karlsruhe); Hesse (Darmstadt); Hamburg (Hamburg); Thuringia (Weimar); Oldenburg and Bremen (Oldenburg); Brunswick and Anhalt (Dessau); Lippe and Schaumburg-Lippe (Detmold); and Mecklenburg (Schwerin).

ministration. Since progressively more functions were transferred to the Reich, together with the political independence, the administrative autonomy of the Laender was more and more "hollowed out." Gradually the political institutions of the Laender were thrown on the dust heap. First to disappear permanently were the Laender diets. The powers of the suppressed parliaments, insofar as they survived, were usurped by the Laender governments, a process which faithfully reflects the identical development within the Reich. As final solution the Reconstruction Act of 1934 transferred also, as a consequence of the disappearance of the legislative powers of the Laender, the Laender governments into agencies of the Reich, exercising merely powers re-delegated by the Reich. If the Reich deems fit to have a statute passed which applies only to the territory of the former Land, the government of the Land may do so by and with the authorization of the Reich Minister to whose jurisdiction the matter belongs. Laender legislation is actually Reich legislation confined to the territory of the Land. As to the extent of such Laender legislation authorized by the Reich, it is restricted to purely local affairs, such as eminent domain, mining law, and agricultural matters. In conformity with the suppression of the Laender as separate political units, uniform Reich legislation spread rapidly over all fields previously reserved to the states. This process, perhaps the most beneficial of all reforms undertaken by the regime, is called *Verreichlichung*. Since it is impossible to enumerate all such matters now centralized, only a few of the more important fields are mentioned here: civil service, trade and crafts, press, administration of justice, taxation, traffic and communications, local government, police,[8] and even most of the cultural activities. Moreover, all public officials of the Laender appointed and dismissed by the Reich are Reich officials.

[8] This important domain was centralized by Edict of the "Fuehrer" of June 17, 1936 (RGB. I, p. 487). Himmler, Chief of the SS and the *Gestapo* (Secret Police) is head of the entire German police and also a member of the Reich cabinet.

Yet it is misleading to assume that Germany is at present a wholly homogeneous and uniform country like France or Italy. It would be more appropriate to liken the present status of the Laender to that of Scotland or Wales within the frame of the United Kingdom. Curiously enough, the former Laender, though denuded of power and stripped of functions, still have governments of their own (*Landesregierung*). The Laender governments are organs of the Reich and not of the Laender. The "Fuehrer" and Reich Chancellor appoints, dismisses, and instructs them directly; but they are equally bound to accept instructions from the individual Reich Ministers. Last but not least, they are under the influence of the political boss of the district, the Regent, who may consider them as "his" government. The main reason for this complicated, wasteful, and overlapping system is the latent fear of the regime that tribal or sectional differences, nurtured by "statehood" reminiscences or religious diversities, may reassert themselves. Moreover, some of the party politicians had built up for themselves such a strong local following that they had to be given a share of the spoils, and even Hitler has to respect it.

Even more puzzling appears the fact that the actual situation as to Reich Regents and Land governments is by no means uniform. Hitler has the power to assign to one and the same man the function of Reich Regent and of head of the Land government, or he may allow different men to hold the different offices. Consequently, some of the Laender can boast of having a Reich Regent in addition to a Land government; while in other territories the offices and functions of Reich Regent and Land government are merged, with wide variations in the last-mentioned class.

PRUSSIA

In a class by itself is Prussia. Political dualism between the Reich and Prussia was one of the causes of the disintegration of

the Weimar Republic. Prussia, if possible, has lost her identity as an individual state even more than the other Laender. The "Fuehrer" and Reich Chancellor holds nominally the office of Regent for Prussia; actually, by delegation, the functions are exercised by the Minister President of Prussia, Goering.[9] Since he is not a Reich Regent, he is not responsible to the Reich Minister of the Interior or the Reich cabinet. Responsible only to Hitler, and taking orders, if any, only from him, he occupies a singularly independent position. The members of the Reich cabinet, with the exception of the Reich Finance Minister, are *ex-officio* members of the Prussian cabinet. In order to avoid duplication in staff and administration, all other formerly separate departments of Prussia, again with the exception of the Finance Ministry, were in due course absorbed by the corresponding Reich ministries. Thus the Prussian government is an integral part of the Reich government, and *vice versa*. This solution of the dualism between the Reich and the largest member state, Prussia, is strikingly similar to the arrangement under the Bismarckian Constitution of 1871. Prussia thus became a sort of jurisdictional province of the Reich. The fundamental difference, however, consists in the fact that before 1914 the Reich was controlled by Prussia, while now Prussia is controlled by the Reich.[10] On the whole, consciousness of "statehood" and manifestations of sectional tribalism, in the past the cornerstones of German political history, are at present well under control and completely submerged by the tide of the one-party state. It remains to be seen whether or not a resurrection takes place when the pressure of the one-party machine relaxes.

[9] Edict of the Fuehrer and Reich Chancellor, of April 23, 1933 (RGB. I, p. 233).

[10] Prussia possesses, in addition, a number of peculiarities, such as the Provincial Governors and the Council of State—the latter a merely ornamental creation of Goering, praised by National Socialists as the pattern of a "Council of Leaders" (*Fuehrerrat*).

Regional Planning (*Reichsreform*)

The plan of a regional regrouping of the Reich on geographical, or rather economic, lines (called in Germany *Reichsreform*), in the place of the existing pattern drawn by the accidents of dynastic history, has not yet materialized. Minor rectifications of the internal state lines, by exchanging territories among the Laender of Prussia, Hamburg, and Oldenburg, were accomplished in the so-called "Little Reichsreform" of 1937, by which also the time-honored Free City of Luebeck was wiped from the map and its territory distributed among the neighboring Laender.[11] For a long time the densely populated district around Hamburg badly needed a territorial realignment because parts of the area of the City of Hamburg belonged administratively to three different states. The Hansa City of Hamburg received a new constitution [12] in 1937. For all practical purposes, Hamburg should be considered more as a province under the direct control of the Reich than as a separate territorial unit comparable to a Land. An indirect attempt was also made to break down the stubbornly homogeneous "state-consciousness" of Prussia by making the governors of the Prussian provinces (*Oberpraesident*) the immediate and personal agents of the Reich government, similar to the position of the Reich Regents. Yet, on the whole, the thorny problem of territorial realignment on economic or regional lines was shelved, perhaps because of underground resistance of local interests, insuperable even for the omnipotence of a totalitarian dictatorship, or perhaps because economic rationalization meant little to a nation bent on preparedness for war. During the last few years one heard little of a territorial regrouping in *Reichsgaue* under immediate control of the Reich, without the cumbrous intermediary system of the Laender administration. Perhaps the position of the Saar district, of Hamburg, and of the Reich capital of Berlin could have served as experimental patterns.

[11] Law of January 26, 1937 (RGB. I, p. 91).
[12] Law of December 9, 1937 (RGB. I, p. 1327).

In March 1938, expansionist dynamism, sailing still under the flag of "racial self-determination," led the Third Reich for the first time beyond the historical boundaries of the Bismarckian Empire [13] by the annexation of the independent state of Austria. Incorporation of Hitler's homeland was prepared by undermining the internal resistance through Nazi infiltration, and complemented by a military invasion of the defenseless neighbor. Both by a German statute [14] and by an Austrian "constitutional amendment," wholly illegal at that, the annexation was inscribed into the statute book. The official title of the Austrian "Land" is *Ostmark*. At once, by an endless series of decrees, German laws were extended to the newly acquired province and enforced by numerous officials of the Reich distinguished more by Prussian efficiency than by an understanding of the widely different political culture of a country with an old, proud civil administration justly renowned for its leisurely efficiency. Consequently assimilation was considerably more difficult than, for example, in the Saar. While railroads, postal services, taxation, administration of justice, and police were coordinated without delay, many of the Austrian statutes continued at first to remain in force because hasty enforcement of German law would have thrown the administration completely out of gear. Economic life, however, was at once harnessed to the Four-Year Plan. The treacherous puppet, Federal Chancellor von Seyss-Inquart, was made over into Reich Regent, his ministers into members of a Land government. In addition, Herr Buerckel, tested as coordinator of the Saar, was appointed Reich

[13] The eventual reunion of the Saar basin with Germany (after the plebiscite of January 15, 1935) was envisaged by the Treaty of Versailles. The regime deserves no credit for it. From the viewpoint of administrative technique, the Saar is an interesting example of direct administration of a territory by the Reich, without intermediary Land authorities, similar to the administration of Alsace-Lorraine after 1871. The Saar administration is headed by a Reich Commissioner, who acts as the Reich Regent of the territory.

[14] Act "on the re-union of Austria with the German Reich," of March 13, 1938 (RGB. I, p. 237).

Commissioner for the coordination of Austria (April 25, 1938). Incidentally, he was to be much more a supervisor than an advisor of the Austrian "government." If one may judge from reports of dissatisfaction of the Austrian Nazis, it seems that the intrinsic resistance of the Austrian political system, known for its tenacity and stamina in distress, can be overcome only by a laborious process of pressure.

Territorial reorganization of the Ostmark took place only in 1939,[15] according to which the former federal state of Austria was divided into seven territorial districts (*Reichsgaue*).[16] The *Reichsgau* is organized as an "administrative district of the state" and as a "corporation under local autonomy," whatever that may mean. Each is headed by a Reich Regent; but their powers are decidedly inferior to those of their German namesakes. The scheme impresses one as an effort to discourage from the outset the continuation of the tradition of Austrian statehood.

The Sudetenland

The Sudetenland, before October 1, 1938, an integral part of the republic of Czechoslovakia and at no time belonging to Germany, was incorporated into the Third Reich through the successful efforts of the English and French governments culminating in the so-called "Peace of Munich" (September 1938). It was organized in 1939, on lines similar to the Ostmark, forming a *Gau* (district) of the Reich under a Reich Regent of its own (Konrad Henlein) who resides in Reichenberg.[17] At first existing legislation remained in force unless it was in conflict with the letter and

[15] Law on the administrative structure of the Ostmark, of April 14, 1939 (RGB. I, p. 771).

[16] The areas, corresponding on the whole to the former Austrian provinces, are: Vienna, Carinthia, Styria, Lower Danube, Upper Danube, Salzburg, Tyrol, and Vorarlberg. (Vorarlberg is a separate administrative unit under the Reich Regency of Tyrol.)

[17] See law on the administrative structure of the *Sudetengau*, of April 14, 1939 (RGB. I, p. 780).

spirit of National Socialism. Recently, however, German legislation began to pour into the territory once so outspoken in its complaints about the rule of Prague, and the Sudeten Germans are by now well in a position to draw comparisons between authoritarian and democratic administration. The Reich Ministry of the Interior, charged with the technical details of coordination, flooded the district with Reich officials, much to the disappointment of the local Nazis, hoping for the best of the spoils.

The Memel district, a strip of land formerly belonging to East Prussia and assigned by the Treaty of Versailles to Lithuania's control as her only port, was ceded to Germany, under military threat of invasion by the Reich, in March 1939. It now forms a part of the Prussian province of East Prussia.[18]

The re-incorporation of "the Free City of Danzig" was accomplished on September 1, 1939 by a decree, issued and signed by the Nazi District Leader of Danzig Forster, previously appointed by Hitler "Head of the State." The decree, unique as a constitutional document, cancels the constitution of Danzig with immediate effect, concentrates all legislative and executive powers in the hands of the "Head of the State" and declares Danzig part of the German Reich. Incidentally, long before reunion with Germany actually took place, Danzig had been a full-fledged province of the Third Reich, both in political organization and economic coordination.

The "Protectorate of Bohemia and Moravia"

In the "peace" of Munich (September 1938) and the ensuing Vienna accords (November 1938), the republic of Czechoslovakia, considered justly the strongest, best administered, and most progressive of the so-called "succession states" created after the World War, had to submit to a territorial mutilation in favor of Germany, Hungary, and Poland unparalleled in modern history.

[18] Law on the reunion of the Memel-Land with the Reich, of March 23, 1939 (RGB. I, p. 559).

The Czecho-Slovak people were led to believe, by the promises of their former allies and false friends as well as of Hitler, that the rump-state would be permitted to lead a political life of its own. But the National Socialist plans for destroying completely the political independence of the only democracy east of the Rhine were pursued with vigor and cunning. The Czecho-Slovak government was headed, after the resignation of Dr. Beneš (October 1938) by Dr. Hacha, Chief Justice of the Supreme Administrative Tribunal, as President; and Rudolf Beran, leader of the Agrarian (conservative) party, as Minister President. Though dissolving the unimportant Communist party and establishing a compulsory two-party system, the government successfully resisted German-inspired efforts for Nazification of the nation. Consequently, the Nazis resorted to the proven strategy of undermining the political cohesion from within. Backed by an infiltration of German storm-troopers and the militant German minority, some of the leaders of the Slovak autonomist movement—whether misguided patriots or political mercenaries of the Third Reich is as yet an open question—proclaimed the independence of the Slovak province of Czecho-Slovakia under a German "protectorate" (March 1939). Immediately afterwards the Czech President was summoned to Berlin and forced to sign away the political liberty of his people while German armies had begun to invade Czech territory without encountering resistance. On March 16, 1939, Hitler declared the former Czech provinces of Bohemia and Moravia, economically the most important part of the former republic, a German protectorate with internal autonomy.[19] For the first time, the regime openly abandoned the principle of racial homogeneity and "self-determination of nations" which heretofore had camouflaged successfully its imperialistic designs in the case of Austria, the Sudetenland, and Memel, in favor of the slogan of naked Imperialism styled "living space" (*Lebensraum*). In the light of recent events confirming the customary technique of the Nazis of

[19] See Edict of the Fuehrer and Reich Chancellor, of March 16, 1939 (RGB. I, p. 485); and Ordinance of the Fuehrer, of March 22, 1939 (RGB. I, p. 549).

achieving their ends step by step, the Edict can be considered only as a temporary arrangement and a prelude to complete and outright annexation of the Czech provinces. At present the occupied territories belong to "Greater Germany" and are under the "protectorate" of the latter. Only racial Germans are full-fledged German citizens, subject to German law and the jurisdiction of German courts. All other inhabitants are nationals of the Protectorate. Autonomy is granted to the Czechs within the limits of "political, military, and economic interests of Germany." As "guarantor" or custodian of the Reich interests, there functions the "Protector," residing in Prague. He is appointed by the "Fuehrer" as his and the Reich government's sole representative, and acts under his personal instructions. As "Lord Protector" Hitler appointed Baron von Neurath, former Minister of Foreign Affairs. Both the head of the autonomous administration of the Protectorate, the President, and the members of the government of the protectorate, need the confidence of the Protector for the exercise of their office. Members of the government may be dismissed by him; he has not only the right of advising the government of the protectorate, but may also veto its measures and even act, if he deems fit, in the place of the "autonomous" government in all matters concerning the internal administration. His veto applies to all statutes, administrative acts, and even decisions of the courts of the protectorate. He is empowered to decree new law and to enact legal regulations overriding Czech "autonomy." [20] Foreign affairs are handled by the Reich government. The Czech government maintains an ambassador in Berlin. Moreover, the Reich controls the military establishment of the protectorate through garrisons; it dominates the communications, customs, postal services, and whatever the Protector holds to be in the interest of the Reich.

These arrangements evidence strikingly the National Socialist semantics of applying political terms to situations altogether con-

[20] See Ordinance "on the legislative powers in the Protectorate of Bohemia and Moravia," of June 7, 1939 (RGB. I, p. 1039).

tradictory to their general meaning. The hapless nation was delivered into the hands of a conqueror who uses the "protectorate" for the complete spoliation of its riches and the ruthless exploitation of its natural resources in the exclusive interest of German war preparedness. The gold treasure of the Czech National Bank, the entire military equipment, valuable machinery and outfits of industrial plants, the harvest, and whatever the occupation-authorities could lay their hands on, were carried away to the Reich. Man power was impressed into the German labor market. The use of the Czech language was restricted; Germanization is being pushed forward relentlessly. The Protector, overruling Czech opposition, imposed the full measure of the anti-Semitic legislation of the Reich. German officials as well as local Nazi bosses of the German minority and of the Sudetenland were placed in control of key-positions in administration. The Protector himself is merely a tool of the Nazi boss, K. H. Frank. The country is treated as was Belgium during the military occupation of the war—and worse. Yet the weight of the German military and economic machine has not yet crushed the stubborn patriotism of the Czechs, who had previously upheld their national aspirations for three centuries under Habsburg rule. Political parties fused themselves into a bloc of National Unity which was joined spontaneously by 94% of the electorate; and the process of passive resistance for which the Czechs are admirably suited, is now in full swing. Since the outbreak of the war Germany is compelled to keep large garrisons in the territory in order to prevent an open revolution. It is safe to say that, in the long run, of all the morsels which the insatiable Nazi regime has swallowed thus far, the Czechs will prove to be the least digestible.

Reincorporation of Polish Territories

Finally, on October 19, 1939, those parts of the old Prussia which were lost in the Treaty of Versailles to the newly created Polish state, were reincorporated by decree of the Reich. The annexed

territories embrace parts of West Prussia and the former Prussian province of Posen, together with the rich industrial district of Upper Silesia, belonging to Poland since 1919. The districts of West Prussia and of Posen are under the administration of Provincial Governors (*Oberpraesident*), residing in the cities of Danzig and Posen respectively. The annexed territories correspond roughly to the areas lost by Germany after the World War. Thus, with the exception of Alsace-Lorraine and the small strips of land ceded after the war to Belgium (Eupen-Malmédy) and to Denmark, Hitler has restored Germany to her pre-war borders, aggrandized by such vital parts of the former Austro-Hungarian Empire as Austria proper, the Sudetenland, Bohemia, Moravia, and Slovakia.

SECTION THREE

THE INSTRUMENTALITIES OF POWER

Political Power and Government

From their fighting years against Weimar, National Socialist leaders learned that the success and stability of a political system depend less on actual governmental institutions, serviceable as they may be for the ends desired, than on the realization of the primitive truth that governing consists in the *exercise* of political power. Obsessed by the will to power, and exceptionally able to use power for their political aims, they devised, in addition to a most appropriate arrangement of government, a system of controls admirably adjusted to the psychological conditions of modern mass society. These instrumentalities of political power are operated, through remote control, by the inner circle of those in actual command. Seen as a whole, the power-generating processes are rooted in the two fundamental elements of mass-society, that is, organization and psychological inducement resulting from persuasion, emotion, and coercion. The National Socialist regime has developed mass control by organization and emotional spell into both an art and a science. For the student of the "state in motion" (*Bewegungsstaat*)—as the Third Reich most fittingly describes itself—careful observation of these phenomena is as indispensable as the realization of the governmental structure in itself, and even more so, because governmental institutions and power-generating processes dovetail to perfection. The National Socialist regime stands out as the most accomplished machinery for mass control known in history.

CHAPTER 1

THE NATIONAL SOCIALIST PARTY

The one-party machinery consists in conferring exclusive political power upon the only existing political organization, the NSDAP, which, in turn, is the instrument of one man, controlling, through the party, both state and people.

Legal Foundation of the One-Party State

The legal instrument for the establishment of the one-party state was given to the Nazis through the Ordinance of the Reich President of February 28, 1933,[1] suspending civil rights, and the Enabling Act, authorizing the government to overrule the constitution by simple government decree. Thus the leaders could obtain "totality" of political power as they had desired. The statute "concerning the formation of political parties" of July 1933,[2] today the dreaded weapon of the regime against the underground opposition movement, declared the NSDAP the only political party. It threatens with extremely severe penalties all efforts to maintain the political cohesion of dissolved parties or to constitute new parties. Mere discussion of such plans is dealt with by the courts as attempted treason. By this time, trusted "old fighters" had occupied all politically relevant positions in state and communes, through the political device of personal union between a local party function and a state or communal office. The legal capstone

[1] See *supra*, p. 11 f.

[2] *Gesetz über die Neubildung politischer Parteien*, of July 14, 1933 (RGB. I, p. 479).

of the complete amalgamation of state and party was the statute "on the unity of party and state" of December 1933.[3]

On closer attention, this strange legislative document (enacted, of course, by government decree), while it contains little of positive law, reveals the fulfilment of the fundamental theoretical postulate of the regime: the fusing together of the threefold divisions of state, party, and people into one indissoluble unit. The NSDAP, as the only legal political organization, becomes a state within the state, placing, in many respects, the party as an elite above the common law, and delivering the control of the state machinery into the hands of the party hierarchy. In the abstruse phraseology of the statute, the party was declared "the bearer of the state idea" and, as a public corporation, was given far-reaching privileges of exemption from the general laws. On the other hand, members of the NSDAP and its affiliated organizations are under special duties, violations of which are punishable by special party courts legally recognized as judicial authorities of the state (Paragraphs 3–8). In March 1935 the "Fuehrer" issued more detailed regulations on the organization, structure, and powers of the party, now integrated into the state.[4]

Organization of the National Socialist Party

(a) Structural Organization

In the present set-up of the National Socialist Party, the so-called "structural parts," or groups (*Gliederung*), are to be distinguished from the "affiliated associations" (called *angeschlossene Verbände*). The first class may be considered the core and center of the actual controlling machinery, while the second class coincides roughly with those portions of the population over which control is exercised. The "structural groups" proper—six in all —are: the SA (Storm Troopers); the SS (Elite Guards), mainly the huge police force of the regime; the National Socialist Motor

[3] *Gesetz über die Einheit von Partei und Staat,* of December 1, 1933 (RGB. I, p. 1016).

[4] Ordinance of the Fuehrer, of March 29, 1935 (RGB. I, p. 502).

Corps; the Hitler Youth; the National Socialist Students Association; and the National Socialist Women's Organization. The "affiliated associations," nine in all, embrace: associations of physicians; lawyers; technicians; teachers; university teachers; public officials; and, most important of all in numbers and influence, the German Labor Front, successor of the trade unions. In addition, of course, the party includes the individual party members, estimated at present at some four millions—exact figures are never published. The actual membership is held down at present by temporary stoppage of admission. It is clear that the individual party member, if—as is the rule—he is at the same time occupied in a remunerative profession, is under the double control of the party and of the party-controlled association to which he belongs; while the non-party member is subject to control by the party officials who run his professional organization.

One could as well describe methodically an ant heap as the various subdivisions and activities of what appears as the NSDAP in operation. The existing system, "one of the most complicated, disorderly, overlapping, and amorphous organizations of the world," as it is aptly described,[5] is an outgrowth of one of the fundamental traits of the German character: that of organizing for the sake of organization, regardless of the effect created by the organizing activity.

The amazing fact in this elaborate chaos is the continued dualism between party and state, despite their alleged identity. The NSDAP maintains a quasi-governmental organization parallel to, though strictly separated from, the apparatus of the state. Even if occasionally offices of the state and of the party are held by the same man, they are carried on by different staffs.

The apex of the party pyramid is the Central Directorate of the Party (*Oberste Reichsleitung*). It is the authentic counterpart of the Reich government, a party cabinet composed of the men of the "inner circle." This relatively small group of some twenty or thirty men, whose names are almost unknown outside Germany,

[5] Stephen Roberts, "The House that Hitler Built," London, 1937, p. 72.

ruled the nation prior to the outbreak of the war; today much of their power may have been surrendered to the military leaders. The Reich cabinet proper only executes the policies mapped out by the Central Directorate of the party. While the Ministers themselves are constantly before the eyes of the public, these most influential men are the power behind the power. Only a few members of the Reich government belong to the inner circle.[6] The majority, and perhaps the most powerful among them, hold no state positions.[7] This group, unaffected by the purge of 1934, has remained unchanged since the beginning and has developed a remarkable degree of team work, or, as others may say, of "gang spirit." The system is duplicated and triplicated by the staffs and organizations of their own maintained by individual members, all of them connected more or less directly with Party Headquarters. This gigantic army of party officials is constantly increased in order to make room for job-hunters and favorites of the influential leaders. These offices, sections, departments, institutions, and organizations are interrelated and subordinated to each other in a mysterious way which not even those in the center of power are able to unravel. Criss-cross control, part and parcel of the party mechanism, is perhaps the intrinsic secret of its actual power. Over-organization seems to be an inherent vice of dictatorial government, popularly renowned for its efficiency and simplicity. Yet in fairness it should be stated that not a few among the scores of leading party bosses are first-rate organizers with great business ability, administrative qualifications, and executive talents.

(b) Territorial Organization of the NSDAP

The territorial organization of the NSDAP took its cue from the military cadres of the army. In addition, it is impossible to

[6] E. g.: Hess, as Deputy-Leader of the "Fuehrer" in his capacity as leader of the party, not, of course, as Reich Chancellor; Goebbels; Darré; Frick; Ley.

[7] Only a few names may be mentioned: Philip Bouhler, "business manager" of the party; Dietrich, press chief of Hitler; Rosenberg, Director of cultural activities of the party; Amann, head of the mammoth publishing concern which sells *Mein Kampf* and owns more than half of all German newspapers;

overlook some striking resemblances to the organization of Fascism in Italy. The "old" territory of the Reich is divided into 32 party districts (*Gau*), lately increased by the newly established *Gaue* of Austria, the Sudetenland, and of Bohemia and Moravia, not to mention the additional districts in foreign countries not yet subjugated, though enrolled in the *Auslandsorganisation*. Party organizations of German nationals exist, in more or less secrecy, in all foreign countries where the local authorities are lenient enough to tolerate them. On the highest level of the party officials, who as a group form a closely knit hierarchy of party functionaries (*Amtswalter*), are to be found the party District leaders (*Gauleiter*), second in influence and power only to the bigwigs at the center and, without exception, trusted party bosses from the ranks of the "old fighters." In many cases they simultaneously hold high state offices, serving also as Reich Regents or members of the Land government. On the next lower level follow the regional subdivisions of each *Gau*, called *Kreis*, corresponding to the county and headed by a regional party leader (*Kreisleiter*). Both the district and the regional subdivisions are generously equipped with staffs of officials devoting their full time to the various tasks of administration and control. The *Kreis* again is subdivided into the local party groups (*Ortsgruppe*), which exist in each city, town, village, and hamlet, again staffed by a host of paid party professionals. The District leader is appointed directly by Hitler; the Regional leader, at the suggestion of the District leader, also by Hitler; while the leader of the local group is appointed by the District leader at the suggestion of the Regional leader. In towns the local group is again split into numerous "cells" and "blocks." The official of the latter, the Blockwarden (*Blockwart*), is undoubtedly the most important link in the huge party organization. In each apartment house resides, like a spider in his web, the party confidant, frequently the janitor, who keeps a suspicious eye on all movements of the tenants, observes their

Buch, as head of the party tribunal, the chief executioner; Schwartz, treasurer of the party funds; and many others.

visitors, and spies into the living habits of each member of the household. Only those familiar with the officiousness, rudeness, and corruption of European janitors can evaluate the totalitarian aspect of this official intrusion into private life. The Blockwarden has become the most effective instrument of control, espionage, and denunciation through which the regime holds the individual in its grip.

The Party Congress

Every year in September the Party Congress (*Parteitag*) takes place in Nuremberg. "The City of the Party Rally" has erected, during the last few years, a magnificent plant as fitting background for one of the most spectacular gatherings of our time. The Party Congress serves at the same time as a party convention and an official state ceremony, used now by Hitler for important announcements of internal and foreign policy.[8] Huge masses of frenzied participants and spectators—the latter performers no less than the others—create the proper setting for Hitler's pontifical revelations of Nazi politics, philosophy, and culture. In spite of its recent tradition, the Party Congress is already imbued with a weird and pagan ritualism which few people are able to resist. The stagecraft of the mammoth rallies, the fanaticism of the masses, the banners, marchers, shouters, the circus element and the melodrama woven into it, Hitler's personal performances—miracles of physical endurance and mental alertness—all contribute to the atmosphere of delirious and calculated mass-emotionalism, which may be likened to the religious hysteria of the fanatical Moslem crowds in the forbidden City of Mecca.

Activities of the Party

According to National Socialist doctrine, the party is not a minority of particularly ruthless and successful men who seized politi-

[8] In 1935, enslavement of the Jews by enactment of the Nuremberg laws, for which purpose the Reichstag was convened to Nuremberg; in 1936, announcement of the Four-Year Plan; in 1938, the attack against Czechoslovakia.

cal power when it was offered, but an integration of the "trinity of state, movement, and people" into the "movement state" (*Bewegungsstaat*). The concept is another striking loan from the Catholic repertory. The National Socialist Party is the dynamic link which connects the state with the people by penetrating into the state and the people. In order to make these rather cryptic statements more palatable, the doctrine ascribes to the party four separate though interrelated tasks: (a) The movement educates the people and evokes in them the consciousness of being a political nation with a special mission for which duty and sacrifice are instilled into the masses. (b) The movement conveys to and interprets for the people the proper "world outlook" (*Völkische Weltanschauung*).[9] (c) The movement devotes itself to the all-important task of selecting and training the future leaders, character being more essential for leadership than professional or bureaucratic knowledge. (d) All three tasks culminate in the fourth and highest: that the movement should incorporate the political will of the people.

This romantic rigmarole beclouds the simple fact that the one-party system serves both for justification and for preservation of a factual power-situation created by the boldness and pluck of a small political group carried accidentally into power. The elite of party loyalists created a mass-basis for the maintenance of political power by way of an admirable organization. In a nutshell, the NSDAP guarantees the *status quo* of power to the ruling class which, by creating jobs, arousing mass-emotionalism, and, last but not least, by spreading terror, maintains and increases its own hold over the people.

Privileged Position of the Party

The actual power of the party lies in the fact that it controls the state, while it is itself immune from supervision or interference by the state. The party itself, party officials and party mem-

The Party Rally of 1939, prematurely named "Party Congress of Peace," was cancelled because of the war.

[9] This philosophical monopoly has found its way even into the statute book; see par. 1 of the law for the unity of state and party.

bers, are privileged in many ways. The party as such is sovereign and exempt from state control within its own sphere. No clear line of demarcation is drawn between state and party activities. The party maintains its own discipline over party members by full-fledged party courts dealing with violations of the party code and party duties. In practice, these party courts, climaxing in the dreaded highest court in Munich under Major Buch, enforce iron discipline and obedience among the party members. Officially the maximum penalty meted out by party courts is exclusion from the party, which implies, according to the system of licensing of professions, the economic ruin of the convicted. Party members, in particular "old fighters," enjoy many privileges economically, and are given preferential treatment in obtaining employment and lucrative positions. The party as a whole and all its officers and members are surrounded by an impregnable legislative armor of protection against attacks and even criticism, however well founded. Symbols, uniforms, and emblems are specifically protected against misuse and defamation. The most effective protection is accorded to the party, its leading men, its institutions and policies by a notorious law of 1934 which punishes insidious attacks against the state and the party, extending even to utterances "likely to undermine the confidence of the people in the political leadership." [10] The statute forestalls even justified complaints about party activities and immunizes party officials from exposure for corruption. Party officials enjoy procedural privileges; the party itself is exempted from taxation and fees. The immense party property, covering whole city quarters, is tax-exempt. Finally, the regime has made itself secure against claims arising from "illegal acts committed in connection with the National Revolution" by withdrawing suits concerning such claims from the ordinary courts and transferring them for decision "in equity" to the Minister of the Interior.[11]

[10] Law against insidious attacks against state and party, of December 20, 1934 (RGB. I, p. 1269).

[11] Law of December 13, 1934 (RGB. I, p. 1235).

Participation of the Party in State Activities

While the party does not brook interference within its spheres of action, it participates officially in various ways in the actual administration and legislation of the state. An ingenious device for the legalization of the spoils system—which had been, under the Weimar Republic, one of the most effective weapons of propaganda against the republic—is that of combining a party office and a state office or of making a party official the incumbent of a state office. This expedient of "personal union" between party and state allows the penetration of the state by National Socialist spirit and prevents the professional state bureaucracy from entrenching itself in the civil service against party influence. As has been mentioned already, the leading party boss of the district (*Gauleiter*) is regularly also the leading political official in the government and administration of the Laender (Reich Regents, members of the Laender governments, Prussian Provincial Governors). Moreover, at the top, leading men of the party hierarchy occupy key-positions in the Reich government.[12] Those members of the inner circle of party leaders who do not hold official positions in state or municipal life are at least members of the Reichstag or the Prussian Council of State. Such duplication, triplication, and multiplication of offices carries with it also the advantage of accumulated salaries, again one of the main attacks directed by rising National Socialism against the "corruptness" of the republic.

The luxury of the new ruling class and its female retinue, evidenced in the marriage festivities for Goering, the birthday celebration for Hitler, the new estates of the party hierarchy—all of them a few years ago penniless white-collar workers, retired army

[12] Hitler: Supreme Leader of the party and Reich Chancellor; Hess: Deputy-Leader of the party and *ex-officio* member of the Reich cabinet; Darré: Minister of Nutrition and Agriculture, National Leader of the German Farmers, and Chief of the Farm Board of the party; Frank: Leader of the National Socialist Lawyers Association and Minister without portfolio; Himmler: Chief of the SS and Supreme Leader of the Reich police.

officers, or unemployed intellectuals,—is of small comfort to the little fellow, who is told to prefer cannons to butter, a slogan evidently less appreciated by the ruling class. One may add to the picture by referring to Hitler himself; his Spartan habits are widely advertised, and he has generously waived his salary as Reich Chancellor (at least for the first year); but he is the richest among the *nouveaux riches,* partly as coproprietor of the mammoth publishing house of the "Eher" concern, partly because, as author of *Mein Kampf,* he has enviable methods for increasing the sale of the permanent best-seller of the Third Reich.

Furthermore, the party participates in the appointive power. The Deputy-Leader of the party (Hess) has to pass on all appointments which Hitler has not reserved for himself.[13] No leading official of state or Land can obtain appointment unless his party loyalty is approved by the party.

Similarly, the party has invaded the dominion of communal government. The Municipal Government Act of 1935, another of the "organic" statutes of the Third Reich,[14] evidently attempts to square the circle by proclaiming that "municipal administration is to be self-government while at the same time establishing conformity with the political aims of the government" (*Staatsfuehrung*). The democratic-parliamentarian form of municipal government, forcefully suppressed since March 1933, was formally abolished. The mayor (*Buergermeister*) and the associates of the mayor (*Beigeordnete*) are appointed by the Reich Minister of the Interior or, respectively, according to the size of the municipality, by the government of the Land. For special interests of the party, the "Delegate Commissioner of the National Socialist Party" is appointed in each town by the Deputy-Leader of the party. The Delegate Commissioner's consent is necessary, among other matters, for appointment and dismissal of the mayor, the associates,

[13] See Edict of the Fuehrer, of September 24, 1935 (RGB. I, p. 1203); and also Paragraph 31 of the Public Officials Act, of January 26, 1937 (RGB. I, p. 39).

[14] *Deutsche Gemeindeordnung,* of January 30, 1935 (RGB. I, p. 49).

the town councilors, and for the enactment of the municipal charter. Needless to say, the leadership principle also dominates the municipal sphere, and no trace of popular participation is left.

The statute book, of course, does not reveal the extra-legal influence of the party officials on the conduct of civil administration. The party claims and exercises the unwritten right to supervise and control the entire administration, and it even usurps, against the letter of the law, administrative activities of the regular officials; so much so, that the common man now turns first to the local party boss about his particular wishes and grievances. The powers of the lower party bureaucracy are, in fact, beyond control. The whole fabric of routine administration with which the common man comes most in contact in his workaday life is visibly rotting under the mildew of nepotism and favoritism, through interference of the local party bosses with orderly processes of administration.

Last but not least, the party participates in the actual process of legislation. In the first place, all important legislative policies and legislative plans emanate from the inner circle of the party, for which the Reich government and the permanent ministerial bureaucracy serve only as technical clerks. Moreover, the Deputy-Leader of the party (Hess) participates *ex-officio* in all legislation of the Reich cabinet and the Reich Ministries. The interposition of the Deputy-Leader in legislation explains the existence of his huge staff, since without his *fiat* no legislation can be enacted.

"Winter Relief"

In the so-called "Winter Relief" and the Hitler Youth, activities of paramount importance to the average citizen, the party is completely above and beyond any control of the state or the public. The Winter Relief Work, at first organized as a charitable contribution of all classes for the destitute, has become an extra-legal method of compulsory taxation under exclusive control and management of the party. It is less burdensome for the people ac-

costed on the streets by uniformed collectors whom they dare not rebuff than for business and wage earners. For the former it amounts to an arbitrary and frequently penalizing assessment of contributions, for the latter to a compulsory tax deducted from the pay envelope. In 1936 the party legally gave it a completely independent financial administration under the leadership of the Ministry of Propaganda and a large staff of party officials.[15] As no public control is possible, reports are beyond verification that the funds are used as easily for undisclosed party purposes as for assistance of the poor. Although elimination of unemployment through the armament-boom has reduced the number of people without income, wages are still low enough to make charitable assistance gratifying to many.

Hitler Youth

National Socialism realized at an early date that he who holds the youth of a nation holds its future. The party itself was, from the outset, a movement of young enthusiasts. The Hitler Youth, founded in 1926 as a party institution, was converted in June 1936 into a state institution under party control and management.[16] The Hitler Youth, as a "structural group" (*Gliederung*) an integral part of the party, is headed by the "Reich Youth Leader" (Baldur von Schirach) appointed by and subordinated to Hitler himself. He is a member of the inner circle of the party (*Reichsleitung*). Beginning at the age of six, boys and girls are conscripted into the various formations of the Hitler Youth, where they remain up to the age of 18;[17] only physical incapacity is ground for release. By virtue of the statute (Article 1), "the en-

[15] Law "on the Winter Relief Work of the German people," of December 1, 1936 (RGB. I, p. 995); and "Constitution of the Winter Relief Work," of March 24, 1937 (RGB. I, p. 423).

[16] Law on the Hitler Youth, of December 1, 1936 (RGB. I, p. 993).

[17] The subdivisions are: between 10 and 14 years, the "Young Folk" (*Jungvolk*) and the "Young Maidens" for boys and girls, respectively; from 14 to 18, the Hitler Youth, for boys, and the Bund of German Girls.

tire body of German youth is united within the Hitler Youth." Consequently all competitive organizations of confessional or professional character, especially the youth formations of the Catholic church, were outlawed. During their tender and most impressionable years boys and girls are under military training and are educated to lead a "Spartan life" which will stand them in good stead once they have climbed the ladder to the higher brackets of the party hierarchy. They are drilled, by party officials, in the slogans and world outlook of the party; taught adulation of the "Fuehrer" and the other party heroes; and imbued with the racial myth and the tenets of German superiority and mission. Few parents dare to balance Nazi teachings by a more liberal and less mechanical education at home. Though seemingly another triumph of National Socialist organization, the actual technique of militarizing the spirit of the young may have unexpected results, if one is to believe reports about physical over-training complained of even by the army, disruption of family life owing to conflicting pedagogical aims, and lack of intellectual interest observed later on in the professions. Decline in enthusiasm and awareness of the boredom of a stultifying education are noticeable even among the Hitler Youth itself, save in the very young. At the outbreak of the war the Hitler Youth, in keeping with its military training, was at once enlisted for services abandoned by mobilized men. Totalitarian war spares no age.

CHAPTER 2

NATIONAL SYMBOLISM

Closely related to the progressive penetration of the party into the state is another instrumentality of political power which derives its strength as much from psychological as from organizational sources. Learning from the sins of omission of the Weimar Republic, National Socialism realized from the start that symbolism, in an age of mass-government, is an essential instrument of political power. Alloyage of emotional symbolism as practised under the Third Reich is skillfully blended from religious and political ingredients, and caters adroitly to traditional prepossessions of the German mind. Once power was conquered, party symbolism became, by way of the statute book, the recognized state symbolism.

A "dynamic" state thrives on the mobilization of emotionalism; and concrete and visible stereotypes of emotionalism had to be created. Only a few of them can be mentioned here. Under the republic, the flag had been a symbol of discord between competing loyalties of the old flag of black-white-red and the new national colors of black-red-gold. National Socialism tolerated at first, for tactical reasons, the co-existence of the traditional black-white-red and the Swastika (*Hakenkreuz*), borrowed, incidentally, in the early days of the movement, from another political group. In September 1935[1] the Swastika became the official Reich and national Flag (also for the Merchant Marine), while the Reich "colors" remained as black-white-red. Flying of the flag by private

[1] Reich Flag Act of September 15, 1935 (RGB. I, p. 1149).

persons when ordered is mandatory.[2] Vilification and defamation of national flag and symbols, once one of the favorite propaganda methods of the movement in opposition, is under severe penalty. The emblem of the party was raised to the rank of the official symbol of state sovereignty.[3] Of even greater importance in daily life is the symbolic value of the uniform, well known token of "virility" in all dictatorial states and, at the same time, an indispensable device for organizing masses into easily controllable military cadres. Germany, always more uniform-minded than other more civilian nations, displays an endless variety of uniforms, beginning with the army and the military organizations of the party and extending to the Labor Service and even the cabinet Ministers. Uniforms, badges, emblems, and all symbolic paraphernalia of the party and the state are protected by special legislation.[4] With equal insight into the German psychology, the regime also restored decorations and orders, banished as unworthy of democratic dignity by the republic. Hitler, as sovereign, reserved to himself the right of conferring decorations. The highest state decoration at present is the German Eagle, bestowed upon and accepted by Mr. Ford and Colonel Lindbergh, among other foreigners. Furthermore, for glorification of the regime and as occasions for the showmanship of its rulers there are the National Holidays, another important instrumentality of emotional indoctrination through symbolism. Participation of the organized masses in demonstrations and festivities, some of which reveal a deliberately religious or cultish character, is mandatory. In daily life the Hitler salute, copied from the Fascist salute and, by the way, once the greeting of slaves and *liberati* in ancient Rome, was to serve the purpose of expressing pride in the regime and in national unity; but as a symbolic gesture it has worn thin. Other emotional *stimulantia* much in use are the national anthems,

[2] Jews are forbidden to fly the Swastika flag.

[3] It is a rather abominable combination of the Swastika, a streamlined Reich eagle, and a modernistic wreath of oak leaves.

[4] See, among others, law of December 20, 1934 (RGB. I, p. 1269).

of which the regime has two, the old hymn of the Empire and the Republic alike, *"Deutschland ueber Alles,"* and the *"Horst-Wessel Song,"* named after its alleged inventor, a party martyr allegedly murdered by the Communists in the fighting years.[5] By law, both hymns are "the sacred property of the German people."

Finally, as devices of symbolistic indoctrination and vehicles of emotionalism should be considered all the other manifestations of stagecraft and pageantry of which the regime is past master, such as organized processions, commandeered mass-demonstrations, and, last but not least, the new buildings and public works of the regime, as visible signs of National Socialist culture, destined to last at least a thousand years and to evoke the admiration of later generations. City planning and city rebuilding is rated as the foremost hobby of the "Fuehrer," whose blueprints are the architectural law of the land. Hitler himself, therefore, is responsible for the monumental though monotonous classicism in the style of Nazi architecture. As no other government, the regime has mobilized endless possibilities of organized mass-control for creating the atmosphere of incessant emotionalism and excitement which the hysteria of a "dynamic" state demands. Again one may doubt whether the technique of arousing mechanized emotionalism will weather the storm once it has to be put to a real, and not merely a symbolical, test of loyalty.

[5] The *Horst-Wessel Song* was characterized by the Supreme Court, in a copyright lawsuit, as an amateurish hash of bars and words taken from well-known soldier- and folk-songs.

CHAPTER 3

NATIONAL SOCIALIST ADMINISTRATION OF JUSTICE

The Concept of Law

Administration of justice as a means of subjecting the German people to the regime is another instrumentality of political power, second in importance only to the party organization itself. The "Fuehrer" is declared the supreme source of law. Whatever the "Fuehrer" wills to be law *is* law, binding judges and courts, irrespective of the outward form which such legal manifestations of the "Fuehrer's" will may assume in practice. The law is the "order of the 'Fuehrer' " (*Fuehrerbefehl*); and the "order of the 'Fuehrer' " is the law. Law is no longer an objective concept of justice and impartiality, but must serve the "folkish ordering of life" (*voelkische Lebensordnung*). Judges and judicial officers have to serve the interests of the regime, or, in the words of one of its most wicked slogans: "Law is what is useful to the German nation." The necessary concentration of powers in the hands of the "Fuehrer" and the Reich government, characteristic of dictatorial government, does not brook independence of the judiciary branch or independence of justice and judicial administration. In the purge of 1934, Hitler arrogated to himself the supreme judicial powers.[1]

The Subjugation of the Bench

Consequently, only a good and loyal National Socialist can be a good and loyal judge. The decisive legislative step for weeding

[1] In his speech before the Reichstag on July 13, 1934, he declared himself the Supreme Law Lord of the nation (*Oberster Gerichtsherr der Nation*); see also

out the "politically unreliable" members of the judicial profession was taken as early as in April 1933 by a now famous government decree, paradoxically styled "for the restoration of the professional service." [2] Paragraph 4 reads as follows: "Officials who, in view of previous political activities, do not offer the guarantee of defending the national state without reservations, may be dismissed from service." The precise number of judicial officers removed from office by virtue of this decree is not known. But not only were all formerly socialist, democratic, liberal, or republican judges and public prosecutors (district attorneys) retired in due course, but the threat of dismissal hung like the sword of Damocles over those remaining in active service. The places of retired officials were filled with partisans eager for promotion, and later with new applicants who had been subjected to a painstaking process of coaching in National Socialist doctrine. Today all judicial positions down to the lowest level of the District Court (*Amtsgericht*) are obtainable only by loyal supporters of the party; what remnants of the older and less pliable generation of jurists may still survive toe the line under an ever-present threat of dismissal.[3] Only the Supreme Court (*Reichsgericht*) resisted, to some extent and for some time, complete Nazification. Moreover, from the beginning, the party, through the District leaders and officers of the Elite Guard, took a hand in deciding on the retention or dismissal of the older and the appointment of the new judges. No wonder that lately complaints about the quality of judicial work are being raised even among the party members.

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law "concerning measures of self-defense of the state," of July 3, 1934 (RGB. I, p. 529), declaring "legal" the measures taken on the previous days "in order to suppress treasonable attacks."

[2] *Gesetz zur Wiederherstellung des Berufsbeamtentums,* of April 7, 1933 (RGB. I, p. 175).

[3] Public Officials Act (*Deutsches Beamtengesetz*) of January 26, 1937 (RGB. I, p. 39, see Par. 171), which, after expiration of the statute of April 1933, took the precaution of continuing the provision for removing "unreliable" judges.

Obviously there is no longer any room for judicial review. The Germans, not at all a "court-minded" nation, have never had any practical use for this supreme criterion of the rule of law. Even under the Republic, though it was finally recognized as implied in the judicial function, reviewing the constitutionality of statutes, except in the case of the Constitutional Tribunal, dealing only with matters of public law, was practically non-existent. The regime made short shrift of an institution considered in any case as "alien to legal tradition." By no stretch of imagination could the institution be reconciled with the infallibility and inviolability of the "Fuehrer" as the supreme source of law, which may reveal itself through a government decree called a statute, or an ordinance, or even an edict (*Erlass*), by now one of the common and most informal emanations of the "Fuehrer's" will. Where is the written constitution with which ordinary statutes are to be compared in order to test their validity? Even the most obvious function of the court, that of considering whether or not an ordinance of an inferior government agency observes the confines of the delegation of powers within which it acts, is becoming more and more restricted, particularly in view of the new technique of a sweeping delegation to the subordinate authorities "to do all that may be necessary to apply the statute in practice." Moreover, when it happened that the courts, still entangled in "liberalistic" concepts of law, questioned the validity of governmental policies conflicting with the existing common law, the government sternly repressed such residues of independence by withdrawing whole classes of cases from the ordinary courts.[4] Thus the postulate of justice according to law is fulfilled to the letter if it is realized that the law is the will of one human being alone, and that justice

[4] This occurred twice in vitally important matters: first, when claims for "illegal acts committed in connection with the National Socialist revolution," were cut off (see law of December 13, 1934, RGB. I, p. 1235); a second time when the courts dared to side with the Protestant church against the totalitarian state (see law of June 26, 1935, RGB. I, p. 774).

is no longer shaped in conformity with ethical standards based on public opinion because public opinion is molded by the few at the top.

Organization of Courts

The most incisive change in the organization of the courts consists in the transfer of judicial sovereignty from the Laender to the Reich.[5] In the place of the former, separate Ministers of Justice of the Laender, at present delegates of the Reich Ministry of Justice hold office in the former capitals. All judicial officers are officials of the Reich, and no longer of the Laender. The Prussian Ministry of Justice became the corresponding Reich Ministry. In the ordinary jurisdiction of the courts surprisingly little was changed. The traditional division into District Courts (*Amtsgericht*), Regional Court (*Landgericht*), Superior Regional Court (*Oberlandesgericht*) over which the *Reichsgericht* presides as Supreme Court of cassation (only on matters of law and not of fact), is retained. In all fairness it should be noted that few serious complaints are heard about the administration of justice in civil matters which do not touch on political problems, although the run-of-the-mill judge is eager to adorn his opinions with references to National Socialist ideology, whether it fits the case or not. Impartiality, however, may suffer one way or the other, if a party member or a Jew is involved.

Criminal Law

The situation is widely different in the field of criminal law. Special courts were created to deal with attacks on the regime and treasonable activities, including all offenses committed against the party. The dreaded People's Court (*Volksgerichtshof*),[6] permanently established since 1936, is a revolutionary tribunal of the Star Chamber type. Only two of the five judges are trained

[5] See *supra*, p. 58–59.

[6] Law of April 24, 1934 (RGB. I, p. 369).

in the law; the majority of three are lay assessors appointed by Hitler, at the suggestion of the Reich Minister of Justice, from among the Elite Guard and the party hierarchy "because of their special knowledge in the defense against subversive activities or because they are most intimately connected with the political trends of the nation." These courts are intended to terrorize public opinion by severity of punishments, secrecy of proceedings, and abrogation of most of the procedural rights of the accused, who has not even the right to choose counsel. Only the crimson-red posters eventually announce that the convicted has died under the axe of the executioner. In close connection with the Secret Police, the People's Courts try to ferret out opposition. Although its activities are shrouded in secrecy, it is known that from time to time widespread conspiracies are discovered and dealt with accordingly.

While, on the one hand, comparatively few inroads into the existing system of common civil law, except those motivated by the racial myth, were made by National Socialist ideology, the system of criminal law has been completely revolutionized. The liberal concept of the reformatory nature of punishment has been superseded by the principles of revenge on the part of the state and the determent of future criminal acts. Severity of punishment and harsh treatment of the convicted is a common feature of dictatorial governments, intent on protecting themselves from attacks and on demonstrating the "virility" of their philosophy. This holds true for political crimes proper, the range of which has been enormously extended under the Third Reich,[7] as well as for common crimes. In the fight against what is called "professional criminals" (*Gewohnheitsverbrecher*), custody in concentration camps as well as sterilization is applied. "Preventive custody" (*Schutzhaft*), the legal term for commitment to a concentration

[7] Special mention should be made of the legislation for protecting the "purity of the race," designed to prevent sexual intercourse between Jews and "Jewish mixed offspring," and "Aryans," according to the Nuremberg laws of September 15, 1935 (RGB. I, pp. 1146, 1147); see *infra*, p. 112 f.

camp, was formally legalized by a most incisive law of June 1935,[8] which also introduced punishment without law (*nulla poena sine lege*). Punishment must be meted out by the court for an act which is deemed in conflict with the "healthy sentiment of the people," even if no statute for punishment exists. What may constitute an infringement of the "healthy sentiment of the people" is to be determined only by the court. Justice as an instrumentality of political power has thus been degraded to the position of handmaiden of a political party. Moreover, according to the special instruction of the Ministry of Justice, "gypsies, foreigners, and persons inimical to the state, after having served their sentence or after acquittal [*sic*] by the court, are to be placed in the hands of the Secret Police for 'reforming' them further in concentration camps." [9] The Third Reich has put the clock of criminal "justice" back for centuries.

Professional Honor Courts

Finally, the judicial organization has been enriched by a large number of so-called Honor Courts, judicial agencies created in connection with the new social stratification of Germany into professional associations or "estates" (*Staende*). The exercise of a profession is considered a public duty, under the supervision of state and party. For the sake of a closer control and supervision in the interests of the totalitarian state, all members of the same professional activity are organized by statute into professional associations or guilds, membership in which is mandatory for the exercise of the profession and is legalized by a membership card or license. To each professional group or association an Honor Court is attached, which enforces specific professional ethics and punishes

[8] Law of June 28, 1935 (RGB. I, p. 839).

[9] The Protestant pastor Niemoeller who, after having been acquitted by the court of treasonable activities, was placed in a concentration camp, is one of the cases known outside Germany. It has been reported that Niemoeller, a former U-boat commander, volunteered for service after the outbreak of the war.

violations of the professional code by its members. Most conspicuous among them are the Social Honor Courts, established in 1934 by the Labor Code, the fundamental statute for organizing capital and labor under the Labor Front and for regulating the relations between the plant owner ("leader of the enterprise") and his workers and employees ("followers").[10] Among other professional Honor Courts may be mentioned those for the press (editors, reporters, and journalists); physicians; attorneys-at-law; business men; artisans; and even huntsmen.

The End of the Rule of Law

The organization and administration of justice under the Third Reich may be summed up by the statement that it attains its political ends by completely destroying the rule of law and by abolishing the regularized due process of law. Separation of powers, independence of judges, judicial control of administration, impartial efficiency of the civil service, a Bill of Rights, as safeguards against executive and legislative encroachments on the individual, and even the certainty of a written constitution—all these elements of the rule of law are overruled by the monocratic omnipotence of the "Fuehrer" and the National Socialist party. The judge is no longer the impartial dispenser of objective justice on the basis of law, reflecting the will of public opinion, but an instrument of political power. Similarly, as in the relations of Germany to other nations since 1933, in the relations of the state toward its subjects might is substituted by way of legal enactments for right. In no other field of human activities has German tradition been more completely revolutionized.

[10] See law "for ordering of national labor," of January 20, 1934 (RGB. I, p. 45) and *infra*, p. 141.

CHAPTER 4

THE POLICE

Modern revolutions may be spontaneous in their origin; once victorious, they become, true children of the technological age, mass-movements under scientific management. Since a totalitarian state, with its inherent inroads into private life and its required sacrifices on the part of each citizen, cannot count on voluntary adhesion through continued enthusiasm, consent has to be manufactured by constraint, through intimidation and terror. Terror is as much an ingredient of emotionalism as enthusiasm. The instrumentality for maintaining political power through coercion is the Police, in particular the Political Police (*Geheime Staatspolizei,* commonly known as the Gestapo).

Legal Position and Organization of the Police

The Gestapo as a separate political police was founded in April 1933 by Goering, then in charge of the internal administration of Prussia; it was made an independent department of the Prussian government in November 1933.[1] In April 1934 all police forces of the Reich were centralized under Heinrich Himmler.[2] Formally, the Political Police is still under the Prussian Minister President (Goering); factually, Himmler, as *Reichsleiter,* is an independent

[1] Prussian laws of April 26, 1933 (*Gesetzessammlung,* p. 122) and of November, 1933 (*ibidem,* p. 413).

[2] Goering had wrested the police, after the seizure of power, from Frick, Minister of the Interior. When Himmler succeeded Goering, it was probably a move of Hitler to check the power of Goering.

supreme Reich authority, subordinated only to Hitler personally, if at all. Finally, the Political Police also became a self-contained system of justice under the orders and instructions only of Himmler and his nominal superior, the Prussian Minister President Goering.[3] The decree defines the Gestapo as an independent branch of public administration which is especially empowered to demand information from, and to give orders to, other agencies of the state. Actions taken by the Gestapo are beyond judicial or administrative control; only a "complaint" is given to the accused which is decided without appeal by the Chief of the Political Police. No legal check on its activities exists, except by the "Fuehrer" himself and, nominally, by the Prussian Minister President.

The Secret Police as an organization is to be distinguished from the Elite Guard (SS). It is true that all higher officials of the Political Police are at the same time officers of the Elite Guard, wearing the uniform of the Black Guards. Many of them have been taken from the ranks of the SS. But the SS, although the instrument of execution for the tasks of the Political Police, has at the same time other functions only indirectly related to the fight against subversive undertakings. The SS of today is the official army of the regime, strictly separated from, and in competition against, the *Reichswehr,* whose loyalty to the regime was evidently not taken for granted. It consists of more than a quarter-million picked and fully trained men, with their own barracks and equipment, including heavy artillery, tanks, and gas. The standards of racial purity are particularly rigid for admission. Subjected to an intensified process of indoctrination and outwardly, at least, animated by unflinching loyalty to the regime whose existence rests on them, they constitute a Pretorian Cohort of unprecedented power, serving as bodyguard for the "Fuehrer" and the ruling party oligarchs, and as an army for the defense of the regime in case of civil war. On the other hand, the Elite Guard executes the orders and policies of the Political Police, and does in general what may be called the dirty work, such as running the concen-

[3] Prussian decree of February 10, 1936.

tration camps, policing the conquered territories, and keeping the masses at bay in public demonstrations. The guiding brain of the Political Police, however, is a bureaucracy which bears as little resemblance to the terror it manipulates as did the immaculate person of Robespierre to the terror of the French Revolution. It would be much more appropriate to liken the directing officials of the Political Police to the Prussian General Staff, from whose book it has copied many a leaf. They are well educated and academically trained gentlemen with an expert knowledge in the specific fields of their activities. Much of the best talent of the younger generation has been attracted by careers in the Political Police. In efficiency and training they are a first-rate institution, a new elite, with an *esprit de corps* and ethical code of their own, devoted with indefatigable zeal to their tasks—admittedly an extremely capable group of administrators.

Activities of the Political Police

Empowered, by the law of February 1936, "to uncover and combat all tendencies and developments inimical to the state, and to take for this end all measures deemed necessary and expedient," the Gestapo has grown into a complicated and vast machinery, extending its cobweb over the entire nation, dealing with political, economic, and cultural matters as well as with objectives of penological character. It is more like a government than an administrative agency, and maintains a staff of its own in many government agencies. It controls citizens and foreigners within the Reich, and Germans abroad, maintaining officials or offices in most foreign countries. Refugees, and even foreign nationals known as opposed to the regime are under its supervision.[4]

As an organization of "scientific" terror, the Gestapo has little of the romantic spell of the heroic G-men. It is highly bureaucra-

[4] Violations of foreign sovereignty and jurisdiction are common. Numerous assassinations of enemies of the regime have been carried out in foreign countries.

tized; even terror is bureaucratized. Some of the actual practices employed in the intelligence service for combating subversive trends may be listed here: control of incoming and outgoing mail, and of mail within Germany; supervision of telephone calls by wiretapping or installation of secret dictaphones; espionage through hired and voluntary informers; uncovering the underground movement through spies and stool-pigeons; control of border traffic and passports; military and economic espionage and counter-espionage; expatriation of enemies of the regime living abroad. In addition, the Gestapo constantly checks on the activities and conduct of the party members themselves, particularly of the SA. No layer of the population and no section of the party is immune from interference by the Gestapo: judges, public prosecutors, the civil service, the police administration outside its own ranks, or the Elite Guards themselves. Not even the army and the leading Reichswehr generals are exempt from its sweeping powers. If well-substantiated reports are to be believed, the Gestapo holds even Reich Ministers and members of the inner party directorate under close watch. The state is controlled by the party, but the party is controlled by the Gestapo. The Political Police is today in Germany the innermost core of power.

Scientific Terror

The concentration camp [5] is considered, inside and outside the German Reich, as the symbol of open terrorization. Seen from a

[5] It seems superfluous to add here to the many authentic descriptions of the concentration camps. At present (1939) the names of at least 18 camps in Germany and two in Austria are known to the present writer, but probably many more exist. The larger ones have a capacity up to fifteen thousand; Sachsenhausen admits 22,000 prisoners. A conservative estimate puts the total number of persons confined at one time to concentration camps at over one and a half million. The inmates belong to the following classes, kept separate from each other and dealt with separately: (1) political prisoners (Socialists, Communists, liberals, and other political miscreants, including monarchists, members of the party and of the Elite Guard); (2) habitual criminals, actually or allegedly devoted to common crimes; (3) persons unwilling to work, mostly

more distant angle, the camps are merely the outward sign of an all-pervading, systematized, cold-blooded terror, integrated into the daily life of the nation, a myth of horrible reality. Scientific terror is as much psychological and preventive as physical and retributive. The regime prefers beating, torturing and other devices of mortification and humiliation to outright killing, although beatings frequently result in killing. Physical violence is only the materialization in individual cases of the potential violence applicable to all. Since the masses of suspects and malcontents, all of them potential enemies of the regime, cannot be "liquidated," each blow reverberates, each cry re-echoes thousandfold on those who are under the everlasting threat of being subjected to equal physical violence. Man of today is ready to die but he is deeply afraid of suffering. Intimidation and terror are thus technical devices for mass control, part and parcel of government by constraint, instead of by consent. Terror is not only an unavoidable incident of political power, but its foremost and most effective instrumentality. Whenever emotional enthusiasm, nurtured by patriotic motives, is flagging, the gap is filled by deliberate and methodical terror. It is a method of defending the regime, directed against supporters as well as opponents, effective through arbitrariness in application, suddenness in performance, varied designs of vengeance, helplessness of the victim, and inescapability of execution. Surrounded by spies, informers, zealots, and fanatics, the people live in an atmosphere of vague though ever-present terror, which even casual visitors rarely fail to observe.

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vagrants and workers refusing to accept assigned jobs ("work-dodgers")—evidently a large percentage; (4) political suspects, among them many persons who incurred the displeasure of the local bosses; (5) homosexuals (only since the purge of 1934 frowned at officially by the rulers); (6) "race defilers" (*Rassenschaender*), both Jews and "Aryans"; (7) Jehovah's Witnesses (*Ernste Bibelforscher*), a religious sect with stubborn heroism reminiscent of the early Christians, worst treated of all—a surprisingly large contingent. Jews are in all classes, their number *in toto* being less than 15%. Lately the most numerous class has been composed of former party members.

SECTION FOUR

THE NATION AND THE INDIVIDUAL

CHAPTER 1

THE "FOLKISH DOGMA" AND THE RACIAL MYTH

The Notion of the People (*Volk*)

The National Socialist doctrine and its translation into actual legislation draw strength from two mystical sources which, though unintelligible to non-believers in the political theology of the Third Reich, have to be accepted at their face value. One is the notion of the "Fuehrer" as the incarnation of the mission of the German nation, from which flow the supernatural powers for its fulfilment credited to him. The second mythological concept, closely related to that of the "Fuehrer," and in fact its complement, is that the people (*Volk*) are the ultimate source of power and the highest unit in the table of national values.

Liberal rationalism conceived of the people as a union, in a given territory, of the inhabitants, who submitted voluntarily to the jurisdiction of the state. The state was considered as possessing an emotional and legal, rather than a biological, relationship to its citizens. In spite of the modern trend towards collectivism, which has eroded the notion of inviolate individual rights, the state retained an indestructible kernel of voluntary adhesion to the political society. National Socialism discarded deliberately the liberal notion of state and society by introducing into the concept of

the people (*Volk*) pseudo-biological, pseudo-historical, and pseudo-metaphysical elements. Borrowing from current German philosophical doctrines of "existentiality" and "totality," it is contended that the nature of a nation or people is determined by the totality of its historical, political, and biological experience. A nation is qualified by the common consciousness of unity, of common objective values of the common past and the common future, and, most decisive of all, of common descent or "race." Membership in a people is not a matter of rational choice left to the individual: it is destiny and, as such, inescapable, carrying with it duties and obligations not to be shaken off by voluntary act or shirked by indifference. Hence, Germans cannot lose, non-Germans cannot acquire, Germanhood.

The Notion of Race

The historical and spiritual elements constituting the notion of *Volk* may seem fairly intelligible. It develops into the mysticism of a political theology once it is enlarged by the implications of the race. Escape from the elusive notions of the individual becomes possible only by linking it to the "racial community" as the natural basis of the political society. The mystery of "community of descent" (*Abstammungsgemeinschaft*) is explained by certain mental and physical characteristics of the race.

The ideology of the race or, more concretely, the "community of blood and soil" (*Blut und Boden*), is the *leitmotiv* of the Third Reich, the foundation and capstone of its official indoctrination, from which all practical policies derive their ultimate justification. Race is the fundamental determinant in the formation and development of a people or nation. The myth of the race amounts, in brief, to the assertion that the pure race is the fountainhead of all creative values of life and history. Creative genius is less a quality of brains than of blood—that blood which flows in the veins of a pure undiluted race. Blood is a metaphysical as well as a merely biological notion and, hence, is incapable of rationalization. Race is

destiny, and destiny is race. The true German nation is a community tied together indissolubly by bonds of blood and not solely by that common history and experience which usually molds heterogeneous racial elements into a nation. From these premises the National Socialist doctrine,[1] not unaware that different races exist and that they have become mixed, evolves a classification of races according to their physical and mental criteria, which is as involved as it is crude in its scientific assumptions and conclusions. Races are not only different in blood and soul, but also unequal in value. Among all races, the Aryans [2] alone count; and, among the latter, the Nordics are the most eminent branch. Only the "Aryan" race is creative of cultural values. Aryan and Nordic were the Greeks, the Romans, and finally the Germanic people. They are the state-builders, the creators of perennial works of art, the trail-blazers in science and culture. Their main spiritual criterion is honor. Creative capacity is innate and is transmitted by blood alone. Only one who has the proper racial inheritance has the creative spirit. The Nazis admit that racial qualities are not always and invariably expressed in physical appearance; hence Nordicism, even if it assumes outwardly the criteria of another race, nonetheless manifests itself in the spirit of the person belonging to it—evidently a plausible explanation for the undeniable fact that some of the leaders of the regime conform not at all to the blue-eyed, blond, and tall Viking-type of the true Nordics.

Once it is assumed that the pure race is the highest of human values, the main objective of a race consists in keeping itself free from contamination by alien or inferior blood. This is the supreme

[1] The racial myth is not an original discovery of the National Socialists. It appears, in a more spiritual and transcendental manner, in Fichte, the German patriot-philosopher at the time of Napoleon, to reappear, after the exact science of biology in the nineteenth century had little use for it, in the popularized cultural anthropology of the Frenchman Count Gobineau, and of the naturalized German of English descent Houston Stewart Chamberlain, whose book "The Foundations of the Nineteenth Century" Hitler swallowed hook, line, and sinker. The racial doctrine was fully expounded by its pontiff, Alfred Rosenberg, in his book (1925): "The Mythos of the Twentieth Century."

[2] The term "Aryan" was used before only as a term of linguistics.

task of the state, subordinated to and serving the purposes of the race. Mixture with inferior races, as world history shows, leads to political degeneracy and cultural decay. Hence the pure race of the Nordics has to free itself, by a forceful process of elimination, from infection with alien, inferior blood. Here follows one of the somersaults of the doctrine. Only contamination by the Negro and Jewish races is alien and dangerous; all other admixtures, though not to be encouraged, are permissible. Once the predominance of the race and the blood is established, the notion of the supreme importance of the soil naturally follows as an emotional and practical consequence. A pure race permeates with its spirit the soil on which it dwells and from which it springs. Here political motives are again helpful, since a stable, self-supporting, and strong middle class of prolific farmers is a bulwark against Bolshevism, which at the time when the race dogma was in the process of elaboration was still the arch-enemy of Nordics, Aryans and Germans alike.

It seems scarcely necessary to refute the mystical rigmarole of the National Socialist race doctrine. After thousands of years of intercourse and intermixture between members of originally different racial or ethnical stock, no pure race exists in Europe. Some nations may still reveal more preponderance of one definite ethnical stock than others; the Germans certainly do not belong to this class. Historically the racial myth is an outgrowth of unspirited romanticism. Philosophically it is similar to the class-myth of Marxism, the economic determinism of history, with which it has in common the fact that everything is explained in terms of one denominator. All this matters little. What matters alone is what the Germans believe or are made to believe. From this viewpoint, the racial theory, through its over-simplification, has an irresistible psychological appeal to the masses, which, because of their ignorance, admire science and erudition. The race myth is within the grasp of the lowest intellect. Without giving too much weight to psycho-analytical arguments, it helped to release the subconscious inferiority-complex created in the war-warped masses by

defeat. Mr. Everyman discovered that, although economically poor, he was racially pure. The "Aryan," conscious of his racial superiority, was lifted above at least one section of the people, and the most envied at that—the Jews—, as well as over the neighboring "races" whose land he coveted.

Practical Consequences of the Racial Myth

The practical consequences of the concepts of nation and race are obvious.

(a) In Foreign Policy

In the first place, the concept of the nation as the inescapable destiny of blood leads to the political postulate of uniting all peoples of German blood and race ("racial comrades") with the mother country. The racial twist applied to the liberal concept of political self-determination was the potent and almost irrefutable argument for joining the German minorities under foreign jurisdiction politically with the German Reich. Under this sign the "homecoming" of the Saarlanders, the Austrians, Sudetenlanders, Memellanders, Danzigers, was accomplished. The "call of the blood" was for a long time and is still the slogan for incorporating other peoples and their land if they are unfortunate enough to have Germans among their population, and for extending the claim of political control even to German minorities beyond the sea. The racial myth furnished the most convincing argument for German aspirations to world revolution.

Lately, however, with the rape of Czechoslovakia, by which an admittedly foreign racial stock was subjugated, the racial myth, heretofore substantiating the claim for the annexation of racial comrades abroad, has been replaced by a novel mythology which sails under the flag of "living space" (*Lebensraum*). The notion, though recent as a device of dynamic activism, is also embedded in the National Socialist concept of the nation and the race. Again political purposes are put forward in a romantic frame of reference which utilizes skillfully popularized political geography

(*Geopolitik*) for the purposes of power politics. By virtue of its racial superiority, the German nation is entitled to such "living space" as it needs for the realization of its historical mission. Any soil touched by the German genius in history belongs to Germany of right. A master-race is entitled, by history and destiny, to rule supremely over the inferior races of Central and Eastern Europe. Thus the racial myth serves the claims of expanding the living space into "Greater Germany." Living space, as the sequel to race and nation, characterizes the second phase of Germany's bid for world power. While the race ideology as long as it confined its scope to Germans living in compact masses in neighboring states, was at least arguable, the notion of "living space" was bound to come into conflict sooner or later with the right to self-preservation of other nations.

From the viewpoint of this fundamental dogma that foreign soil, once consecrated by the touch of the German race, must ultimately fall under German political jurisdiction, the repatriation of German minorities abroad, as in the South Tyrol, the Baltic States and other most valuable outposts of Germandom *in partibus infidelium,* appears as a volte-face of the regime unparalleled even in the checkered history of its ideological principles. It serves as an indication of the sacrifices by which Hitler was compelled to buy the support of Stalin in his fight against the West.

(b) Legislation for the Improvement of National Health

Internally, the racial myth serves, on the one hand, as an excuse for virulent and implacable anti-Semitism, the foremost method of emotional "self-stimulation," already tested in its efficacy by the rising movement, and, on the other hand, for introducing important measures of eugenics and for the improvement of national health. From the basic assumption of the holiness of the soil, far-reaching agricultural reforms, demanded as early as in the party program of 1920, have been enforced.[3]

On the whole, the Third Reich has done more for what it

[3] On these reforms, see *infra,* p. 147 ff.

considers the correct eugenics to promote the purity of the race and for the improvement of national health than any other government. The successes in the Olympics in 1936 were hailed as achievements of the regime. In spite of lately visible effects of inadequate nutrition, the Germans are a healthy nation, the young people devoted to sports as much as everywhere. Public health administration, formerly belonging to the jurisdiction of the Laender, was taken over by the Reich as early as April 1933, and uniform health offices were established.[4] Despite the vagueness and uncertainty of the underlying biological and anthropological theories, commendable measures to promote national hygiene were subsequently enacted. Among them may be mentioned the following: Couples intending to marry must submit to the registrar a certificate from the public health officer showing that they are not afflicted with any mental or bodily disease which would prevent their having healthy offspring.[5] Early marriage and large families are encouraged by financial support and exemptions or release from taxation. Racial instruction and indoctrination is given a substantial share in education. Perhaps the most incisive and, in its ultimate value, the most disputed innovation, however, is a law preventing reproduction by persons afflicted with congenital diseases.[6] All practitioners are bound to report cases of hereditary disease to the health authorities. A new health tribunal, composed of one jurist and two medical assessors, decides whether a person complained against is to be subjected to sterilization or, since 1935, to castration. These measures may be taken against the will of the person affected. Mental diseases, as well as physical defects and deformities, entail sterilization because of their hereditary character. The revolting harshness of the law and, frequently, the excessive arbitrariness of the lower courts have evoked much bitterness both among the more responsible members of the medi-

[4] See Law of July 3, 1934 (RGB. I, p. 520).

[5] *Erbgesundheitsgesetz* of October 18, 1935 (RGB. I, p. 1246).

[6] Law "for the prevention of hereditarily afflicted progeny," of July 14, 1933 (RGB. I, p. 529, with numerous executory ordinances).

cal profession and among the mothers of children threatened with being deprived of their family lives and much human happiness.[7] Moreover, the entire system of private law is permeated with the idea of racial purity and especially the codes of domestic relations and of succession have been revolutionized almost beyond recognition.

[7] The exact number of sterilizations already performed is not known; it is estimated at more than half a million, while about three million more are said to be ear-marked for treatment.

CHAPTER 2

THE POSITION OF THE JEWS UNDER THE THIRD REICH

No other policy of National Socialism has attracted world opinion and aroused world opposition more than the treatment of the Jews, which is in fact the cause and purpose of the racial myth. A factual summary of anti-Jewish legislation may help to elucidate the present position of the Jews in Germany and in German-controlled territories.

Before 1933

Jews had come to Germany with the Romans. Their history was varied, ferocious persecution alternating with periods of relative prosperity and security. Following the precedent of the French revolution (Declaration of the National Assembly of May 28, 1789), at the beginning of the nineteenth century most of the German states accorded equal civil status to the Jews. The Emancipation Act of the North German Bund of July 3, 1869, became a law of the Reich in 1871.

However, civil and political equality thus conferred on German citizens of Jewish extraction was not identical with social equality. Many discriminations remained. Jews, except when baptized, were excluded from public office, the army, and professorships in the Universities. But in the atmosphere of bourgeois liberalism, intermarriage between Gentiles and Jews was not uncommon. In particular, the Prussian nobility, eager to refurbish their paled escutcheons, married Jewish wealth. On the whole, assimilation was well under way. Yet even after 1870 anti-Semi-

tism was rampant and found expression in anti-Semitic parliamentary parties. During the last World War Jews could become officers in the lower ranks of the army, and contributed their full share to the bloody toll. The percentage of Jewish officers killed in action is higher than that of the corresponding categories of the "Gentiles." Full equality of Jews was established only by the republic. They now entered even the higher ranks of the civil service, and could be appointed to full professorships, while retaining their prominent position in finance and banking, in the theater, literature, and the arts in general. National Socialist assertions, however, that the Jewish element dominated the cultural life of the nation are as grossly exaggerated as the complaints of political radicalism among Jews. Although only the left parties allowed them active participation in politics beyond casting their vote, their economic interests were determined by conservative leanings. On the whole, their social position was not much inferior to that of their co-religionists in England and France, but they never found access to the ruling class as in those countries.

Anti-Semitism of the National Socialist Program

Aggressive anti-Semitism soon became the favorite instrumentality of the National Socialist propaganda for stirring up hatred and emotionalism. The 1920 program of the party contains, in numerous sections, demands for the complete elimination of Jews from social, economic, political, and cultural life. It is today the only plank of the platform wholly unchanged and fulfilled to the letter. Anti-Semitism has been aptly described as "the socialism of the fools." It blamed the Jews for the lost war, the calamitous treaty of peace, and the economic difficulties of the post-war adjustment. By a facile trick, Jews and Marxists were identified, although a very small number of Jews were prominent in the Socialist parties. But the participation of Russian Jews in the Bavarian Soviet Republic of 1919 and the policy of the Prussian government, too liberal in admitting Eastern Jews to Germany,

added fuel to the fire. Hitler himself had received the anti-Jewish determinant of his future policies during the impressionable years of puberty in Vienna, where the radical anti-Semitism of Schoenerer and of Dr. Lueger, then Mayor of Vienna, taught him the art of propaganda through exploitation of the anti-Semitic mass prejudices. In some of the half-delirious divagations of *Mein Kampf,* Socialism and Marxism appear as Jewish inventions for killing the blue-eyed fair-haired German knight in distress. He adheres to the "Protocols of the Wise Men of Zion," allegedly a plan for Jewish world domination through world revolution.[1] A particularly unsavory element in this poisonous propaganda was the invocation of sexual envy, which now forms a part of the official National Socialist education and is found in every Nazi primer.

Anti-Semitic Policies of the Third Reich

In the realization of the anti-Semitic program of the regime, three stages may be distinguished. The measures were taken step by step, less because German Jews and world opinion had to be accustomed slowly to this return to the Dark Ages, than because of the necessity of not disturbing economic life too much. In retrospect, it appears that whenever a slackening of popular support was felt, the anti-Semitic screws were driven deeper into the living body of helpless Jewry.

(a) Elimination from Public Office

The Enabling Act of March 24, 1933 empowered Hitler to overrule, by government decree, the constitution and thus to set aside the equal protection of law and the equality of status, guaranteed in the Bill of Rights, of Jews and other persons deemed enemies of the regime. The statute "on the restoration of the professional

[1] The "Protocols of Zion" is an anonymous invention of Russian origin, copied from a political pamphlet directed, in the 60's of the last century, against Napoleon III. It was exposed as a crude forgery in a libel suit in Switzerland in 1936.

service" [2] removed "Non-Aryans" from public office. "Non-Aryans" were characterized as persons having at least one Jewish grandparent —the famous "grandmother clause." Exceptions were made at first for "Non-Aryan" officials who had served since August 1, 1914, or who had fought during the war in the front line, or who were fathers or sons of front-line fighters killed in action. Officials with more than ten years of service received a pension.[3] This solemn legislative promise was revoked in 1935 in the characteristic Nazi manner of repudiating explicit promises whenever it suits them. All Jews without exception were deprived of their ability to qualify for public office. The Public Official Act of 1937 [4] decreed that only citizens are qualified for public office, thus permanently excluding Jews. Identical disqualifications were extended to Gentile partners of Jewish wives, an effective pressure to enforce dissolution of mixed marriages. After January 1, 1936, no Jewish official (including judges, academic teachers of all ranks, employees of state-controlled railroads, banking institutions, and public corporations) remained in office.

(b) Purification of the Liberal and Cultural Professions

Disqualification because of Jewish descent was forthwith extended to all professions "affected with public interest" (*Träger einer öffentlichen Aufgabe*). Jewish descent as disqualification, subsequently enlarged with German thoroughness to the most unimportant occupations (such as inspectors for butcher's meat), embraced in due course lawyers, doctors, veterinaries, notaries, apothecaries, pharmacists, public accountants, tax consultants, and auctioneers. No profession even remotely connected with public service was overlooked. After January 1, 1938, no Jew remained in any one of the trained

[2] Law of April 7, 1933 (RGB. I, p. 175).

[3] This privilege has not yet been withdrawn, even since 1935, when the exceptions for front-line fighters, etc. were revoked and all remaining Jewish officials dismissed. It is one of the few bright spots in the dark picture of the outlawry of the Jews.

[4] Law of January 26, 1937 (RGB. I, p. 39, par. 26).

professions or will be admitted in future. Admission of "Non-Aryans" to educational institutions was officially limited to 1.5% of the total student enrollment.[5] In practice, and in contradiction to the letter of the law, no Jewish students were admitted to any higher institutions of education. Where Jewish pupils remained in elementary schools, party pressure on fellow-students made life so miserable for them that they were compelled to attend Jewish elementary schools.

Less open, though no less effective, was the process of excluding Jews from cultural life. The device applied was the system of licensing in guilds and professional associations, which makes the exercise of a profession dependent on possession of a membership card.[6] This was utilized to squeeze out political non-conformists and Jews. Jews were denied membership from the start.[7] The same disqualifications apply to "Aryan" partners of mixed marriages. Editors, publishers, and leading officers of publishing corporations must even prove their Aryan descent down to 1800.[8] At present the cultural life of German Jews moves within the narrow precincts of the Ghetto. Jewish artists may appear only before Jewish audiences, from which "Aryans" are banned. Jewish journalists may be employed only by the few papers of the Jewish press. Presentation of the works of "Aryan" composers or authors is prohibited.[9]

[5] See Law "against the overcrowding of German schools and higher institutions of learning," of April 25, 1933 (RGB. I, p. 225).

[6] See *infra*, p. 151 ff.

[7] For example, the law on the Reich Chamber of Culture of 1933 (law of November 22, 1933 [RGB. I, p. 661]) declared exercise of any creative cultural activity dependent on membership in one of the affiliated corporations of public law under control of the Ministry of Propaganda, embracing music, art, theater, film, radio, lecturing, as well as writing, press, and journalism. Admission can be denied or revoked "if facts exist from which it may be deduced that the applicant does not possess the necessary qualifications for the exercise of the profession." Jews were officially declared unsuited, regardless of professional efficiency.

[8] See Editors' Law (*Schriftleitergesetz*) of October 4, 1933 (RGB. I, p. 713).

[9] The operas of Richard Wagner, for whom half-Jewish descent is often claimed, are, of course, not among the permitted works.

(c) The Nuremberg Acts

The decisive step in the outlawry of the Jewish element was taken by the so-called Nuremberg laws of September 1935—the Act "for the protection of the German blood and the German honor" and the Reich Citizenship Act.[10] The gist of these statutes, unprecedented in modern history, is that they deprive the Jews of citizenship and political rights, make sexual intercourse between Jews and "Aryans" a crime, and finally define authoritatively what constitutes a Jew.

In conformity with the racial myth, the regime applied from the beginning the criterion of Jewish descent irrespective of the actually professed religion. Through intermarriage, with or without simultaneous baptism, the number of part-Jewish people was at least equal to those of pure Jewish ancestry. What constitutes a Jew was defined in a number of hair-splitting legal distinctions which a regime with a greater sense of humor would certainly have called "Talmudic."

Jews are defined[11] as persons with four or three Jewish grandparents. A Jew is also a person with only two Jewish grandparents, provided he professes the Jewish religion or is married to a Jew or a Jewess. Half-Jews or quarter-Jews are styled "Jewish mixed offspring" (*Mischling*). Marriages concluded after September 15, 1935, between Jews and "Aryans" are illegal, even if concluded outside the German jurisdiction. Partners in such marital bonds are threatened with penal servitude. No marriage can be concluded without full proof of "Aryan" descent on both sides. "Ancestry research" (*Sippenforschung*) has become a new "science" and an industry. Moreover, sexual intercourse between Jews and "Aryans" is a new

[10] *Gesetz zum Schutze des deutschen Blutes und der deutschen Ehre,* and *Reichsbuergergesetz,* both of September 15, 1935 (RGB. I, pp. 1146, 1147), followed by an endless stream of "executory ordinances," the interpretation of which fills the columns of legal journals and occupies much of the time of the criminal courts.

[11] The definitions are found in the First Executory Ordinance for the Reich Citizenship Act of November 14, 1935 (RGB. I, p. 1333).

crime (*Rassenschande*), even if committed by German nationals abroad. The tendency of the new law is to decrease the stock of Jewish blood in the German population. Hence, quarter- or half-Jews may not marry members of the same class, but the former may enter into marital relations with an "Aryan" partner provided that he secures permission of the Ministry of the Interior. From such mixtures no increase of the Jewish stock is to be feared. Male violaters of the law are heavily punished, the Jewish partner being regularly sentenced to penal servitude. After having served their term, they are left to the tender mercies of the Gestapo in the concentration camps. Finally, another humiliating provision forbids female Germans below the age of 45 to serve in Jewish households. The objective of this provision, as of the whole legislation, was to make social contacts of any sort between Jews and "Aryans" impossible, since experience had shown that Germans could be discouraged only by draconian laws from cultivating their Jewish friends.

In addition, the Reich Citizenship Act, another of the Nuremberg laws, barred Jews from citizenship in the Reich, with the attendant loss of participation in political rights, such as voting in elections and plebiscites, or flying the German flag. Jews and "Jewish mixed offspring" are only "nationals" of the Reich.[12] Denial of these privileges was perhaps less onerous for Jews than the regime may assume. But they are excluded also from military service [13] and from the Labor service, though liable to conscription for manual labor. In order to make conspicuous those Jews who have the effrontery to look "Aryan," they must present an identification card testifying to their Jewish character whenever they have contacts with authorities of state or party. Moreover, they must give to their new-born children one of a limited number of first names which the regime considers genuinely Jewish. The list con-

[12] See *infra*, p. 124.

[13] Defense Act of May 21, 1935 (RGB. I, p. 609). It seems that the army command also called up Jewish reservists during the crisis preceding the outbreak of the war. However, the report cannot be verified.

tains such names as Isaac, Benjamin, David, and Abraham. Perhaps the inventors of this ingenious device for humiliation have never heard of Isaac Newton, Benjamin Franklin, David Hume or Abraham Lincoln. All Jews must add to their first names Israel or Sara. Permission to travel abroad is no longer granted unless on promise never to return.

(d) Elimination from Economic Life

Barred in former times from the crafts, farming, and the service of the state, Jews had concentrated on trade, commerce, and more lately on industry. After the seizure of power, a procedure of indirect confiscation of property called "Aryanization of Jewish industrial and commercial undertakings" was organized. The favorite method consisted in confining the owner of the plant (or the principal shareholders) in a concentration camp until he signed away his property and holdings, or in placing all kinds of obstacles, such as denial of raw materials, or rigorous and arbitrary execution of tax laws, in his way until he turned over his property to a Nazi competitor at the price dictated by the local Nazi boss. Without even the pretense of legal justification, Jewish employees were dismissed because their presence in the store or plant "disturbed the peace of labor." Excluded from the Labor Front, they could not find employment except in the declining Jewish business life. On the other hand, the method of boycott which, officially supported by the party, at first seemed most promising, failed to draw fire. In spite of the picketing of Jewish shops by the SA, pillorying in the Nazi press, and open violence, the German customers remained faithful to their Jewish stores. In smaller towns and villages, it is true, the local party stirred up so much hatred and violence that Jews could not maintain themselves. But in the large cities an avalanche of propaganda could not prevent a goodly number of long-established Jewish business undertakings from still prospering. For some years even the Jews deluded themselves in the belief that the regime, after having barred them from public life and the professions, would allow them a modest existence in economic life.

In order to remedy this unforeseen situation, the regime began, in 1937/38, by statutory provisions, to drive the Jews from various economic professions. Moreover, an intricate legislation cropped up for determining what constitutes a "Jewish business." A business was considered Jewish if more than one-fourth of the capital stock or of the shares were owned by Jews. Efforts to conceal the Jewish character of a business were punishable by penal servitude.

The Final Destruction of the Jewish Community

All these measures of what is the most powerful state on earth, if one is to believe the Nazi spokesmen, against a helpless minority were only the prelude to the final blow. In April 1938, on the basis of an authorization under the Four-Year Plan, all Jewish property inside and outside Germany had to be registered with the authorities.[14] The purpose of this huge inventory became evident when, in November 1938, a young Polish Jew, desperate over the expulsion of his parents from Germany, killed an employee of the German legation in Paris. Beginning on the night of November 9/10, all over Germany and Austria occurred a "spontaneous outbreak of the people's wrath." Organized by the party, the Gestapo, and the Ministry of Propaganda, troops of Hitler Youth, led by members of the SA and SS, or their school teachers, destroyed systematically every single Jewish shop and store in every town and village, burned and dynamited every single synagogue in Germany and Austria—528 in all,—desecrated the holy scrolls, and manhandled the rabbis. Jewish homes were systematically pillaged and smashed. Since the burning and sacking of conquered cities in the Thirty Years' War, no similar act of official vandalism has been recorded. About seventy thousand Jews of all ages were thrown into concentration camps which, in the following months, showed an unprecedented death rate. To add insult to injury, an ordinance was issued compelling the Jewish owners to pay out of

[14] Ordinance of the Commissioner for the Four-Year Plan for the registration of Jewish property, of April 28, 1938 (RGB. I, p. 414).

their own pockets for the repairs of their destroyed property. Insurance claims arising from the destruction of property, instigated by state and party, were declared forfeit to the state. Another ordinance of the same day imposed on German Jewry collectively an "atonement fine" of one billion marks, or four hundred million dollars at par. The death of the German official in Paris was only the pretext for the long-planned confiscation of Jewish wealth. The inventory of Jewish property had not been in vain. In mobilizing the demanded cash payments, the Jews were compelled to liquidate real estate, shares, and other holdings for a song; while their property in precious metals and stones, in works of art, had to be surrendered to the state at arbitrarily fixed prices. All money had to be deposited in banks from which the owners could draw only limited monthly sums. More than half the property accumulated by generations of intelligent and industrious people was thus confiscated by the regime.

In order to prevent any possible recovery of the Jewish community, another ordinance was issued,[15] which prohibited for Jews, after January 1, 1939, ownership and operation of all retail and wholesale businesses and the occupation of independent artisan. No longer can a Jew be "leader of the enterprise" in terms of the Labor Code. Leading Jewish employees still in employment had to be dismissed. Jewish shops were only partly "Aryanized," many of them were closed down. Finally, Jews were excluded from receiving public assistance or relief and, deprived of their livelihood and of the greatest part of their possessions, were thrown upon their own resources. Gleefully the official press organ of the Elite Guard announced that now the day had come when impoverished Jewry "would sink into criminality and could be wiped out by fire and sword." The last word of the regime on the Jewish problem was a final measure in July 1939.[16] All Jewish organizations

[15] Ordinance "for the elimination of Jews from economic life," of November 12, 1938 (RGB. I, p. 1580).

[16] (10th) Ordinance in execution of the Reich Citizen Act, of July 4, 1939 (RGB. I, p. 1097).

were incorporated into one Jewish Union which bears financial responsibility for the maintenance of destitute Jews. A compulsory fund is created to which all Jews have to contribute before emigrating. The Union runs all schools, Jewish students no longer being admitted to any other. Only training for emigration is permitted.

The Jew in the Ghetto

At the present moment, the position of the Jew in Germany is pathetic beyond description. Barred from all remunerative professions, unable to find work, stripped of most of his property, relegated to assigned quarters or houses, excluded from all cultural amenities such as museums, libraries, theaters, concerts and shows; forbidden to show himself in certain streets and parks, or to attend restaurants or coffee-houses, he can hope only for emigration. Emigration, however, amounts to complete spoliation by taxes, fines, and contributions of what remains of his property. Penniless in the most literal sense of the word, he may seek refuge in countries most of which close their borders against him.

The German People and the Racial Myth

It is perhaps premature to draw definite conclusions, but there are indications that the anti-Semitic policies of the regime have begun to defeat their purpose, at least as far as the mass of the common people is concerned. To many of the responsible Germans, National Socialism for the first time appeared in the destruction of the Jews as Brown Bolshevism without mask. If confiscation applied to the Jews occurs in peacetime it may befall in wartime the Catholic church or capital in general. During the last year the German nation has received an overdose of the racial myth. With the exception of the youth whose minds have been poisoned by racial indoctrination, perhaps beyond repair, it should be noted that the much vaunted "race consciousness" plays no conspicuous role in the daily life of the people. Particularly the notions of "blood

and soil" have not yet been integrated into the popular mind. By the bulk of the people the race dogma in general is recognized as an artificial political invention rather than as a congenital ingredient of national life. Having eliminated the German Jews as the tangible antagonist of the racial myth, the regime may well try to focus the hatred of the masses suffering under the strain of a prolonged war on "World Jewry" and the "Jewish pluto-democracies" of the West. But it is more likely than not that this weapon of emotionalism, once the sharpest in the armory of the regime, has become blunt from use in too destructive a mood against the German Jews. If there is comfort in misery at least it is true that the German Jews cannot be held responsible even by the Nazis for the outbreak or for the conduct and outcome of the present struggle.

CHAPTER 3

THE INDIVIDUAL AND THE NATION

Duties Instead of Rights

Deification of the nation as the highest value has changed fundamentally the position of the individual. While the Weimar Constitution placed too much emphasis on rights and too little on duties, the Third Reich knows only of duties, and not of individual rights for its citizens. Individual rights are no longer compatible with the exactions of the totalitarian state, which extends its planning activities over the entire nation. The "racial comrade" (*Volksgenosse*) has only duties; from the outset his individuality is determined by his inescapable "location" as a member of the racial community. The state, so the doctrine contends, has no interest in protecting individual rights of the personality. Thus the Third Reich does not recognize individualities, but only types or functions, such as the soldier, the farmer, the worker, the official, the childbearing mother. Fulfilment of personality is found in complete identification with the function assigned to a person by the state. The totalitarian character of modern dictatorship expresses itself most conclusively in the radical denial of individual and personal rights, so that in practice what is not commanded is forbidden. However, the break with the past was less radical than it may appear. In the last years of the Republic the frivolous misuse of powers by the government, owing to the famous emergency Article 48, which allowed suspension of even the seven fundamental civil rights, made such inroads into the popular consciousness of their inviolability that the present regime cannot be blamed

for continuing an established practice. The Ordinance on the eve of the Reichstag fire of February 1933,[1] suspending for an indefinite time the seven fundamental rights of freedom of person, sanctity of domicile, privacy of mails, freedom of public opinion, assembly and association, and the guarantee of private property, in their totality the foundation of the liberal state under the rule of law, is today, after seven years of Nazi power, still in force. Moreover, the Enabling Act of March 1933 placed all remaining individual rights at the mercy and discretion of the government; so much so that an entirely new concept of equality could be introduced in legislation and administration. Equality, as interpreted by the National Socialist doctrine, means that persons and social situations are unequal by nature and circumstances and may be treated differently by the state whenever expediency or the interests of the regime may demand. Consequently, whatever action the state takes, it is never arbitrary. Or, as the ubiquitous slogan of the regime formulates the situation: "Common weal has precedence over private weal." Justified from this viewpoint are all the totalitarian policies of National Socialism: the monopoly of the NSDAP, as well as discrimination against Jews, political enemies and nonconformists, the preferential treatment enjoyed by partisans in political and economic life no less than the differential treatment accorded each profession within the frame of neo-feudalization of the social and economic life in the service-state.

Public Opinion

Most important, perhaps, is the attitude of the regime towards the freedom of public opinion. One remembers the strange conception of the "subjective" will of the people,[2] which may be in conflict with the "objective" will expressed and revealed by the "Fuehrer" alone. The party oligarchy arrogates to itself, therefore, the right of guiding and molding public opinion in order

[1] Ordinance of the Reich President, of February 28, 1933 (RGB. I, p. 83).
[2] See *supra*, p. 46.

to make it conform to the "objective" will of the "Fuehrer." Public opinion is controlled by, and subordinated to, the aims of the regime. Press, radio, theater, and all kinds of artistic, cultural, or scientific expression are regimented and controlled. Conformity to the tenets of the regime is achieved by withholding undesirable information from the people as well as by instilling into them the information deemed desirable. The same principles guide education. The result is that freedom of public opinion in the Third Reich implies freedom to print and to read what the Ministry of Propaganda considers useful nourishment for the public mind. Technically this aim was easily reached through the system of licensing in the statute "on editors." [8] Without the membership card, exercise of the journalistic profession is not permitted. Prohibition or censorship becomes superfluous because no writer threatened with expulsion would dare to offer opposition. The National Socialist doctrine eulogizes compulsion by declaring that the press has acquired a new responsibility towards the state. Yet in spite of rigid seclusion the German public is not entirely cut off from objective information. A mysterious "grapevine" of news exists nurtured by the foreign press and by broadcasts and letters from abroad, and a sort of "catacomb-literature" has evolved which people trained to read between the lines readily understand. Even under war conditions, to judge from the experience during the last World War, such sources of information may not dry out entirely.

Private Property

A similar change took place in the concept of private property. Here the convergence of policies of Bolshevism and National Socialism became clearly visible long before Hitler and Stalin aligned themselves officially. Freedom of contract, inviolability of private property, and freedom to dispose of one's estate after death —the pillars of social life under liberalism—are subjected to deep-reaching restrictions in the interests of the totalitarian state. Al-

[8] *Schriftleitergesetz* of October 4, 1933 (RGB. I, p. 713).

though the National Socialist program of 1920 pays lip service to the sacrosanctity of private property, in the actual practice of a state under military economy tenure of property depends on the use which the owner makes of it. Property is only on trust for the community, and the state may prescribe for the farmer how to use his soil, as well as for the industrialist how to use his plant. The weight of totalitarian exactions crushed free disposition of property. Under the same token, in a large number of statutes compensation for restriction, withdrawal, or confiscation of property and property rights is explicitly excluded. Land has been claimed for military and similar purposes. Regulation of production, price control, and marketing requirements hedge in the free use of property for farmers and industrialists. Capital and labor are invested and employed wherever and whenever military and economic planning under military preparedness may require. Property may even become forfeit if the owner fails to make use of it as the state demands. Whenever the owner is deemed to have violated the obligations springing from the trust of the community, he loses his property by way of punitive confiscation.

Citizenship

Citizenship in the Third Reich has been affected by the suppression of the statehood of the Laender, by the fight against opposition—officially styled "enemies of the state" (*Staatsfeind*), and last but not least by the racial myth.

Reich Citizenship

Formerly a person was first a Prussian, a Bavarian, or a Saxon; and, by virtue of his nationality in one of the Laender, he was automatically also a German citizen. After sovereignty had passed from the Laender to the Reich in 1934, the situation was reversed. At present only uniform nationality as citizen of the Reich exists. The Laender authorities handle matters concerning nationality in

the name, and by delegation, of the Reich. For the rest the pre-war statute on citizenship, of 1913, is still in force, since it was based, in conformity with German tradition, on the principle of descent (*ius sanguinis*) and not of the place of birth (*ius soli*). German citizenship is acquired in the main by birth from German parents, by marriage of a foreign wife to a German husband, and finally by naturalization. No minimum requirements of residence or legal titles for becoming a German citizen exist: it is a matter of administrative discretion of the Ministry of the Interior. Before the annexation of Austria and the Sudetenland, a considerable number of rebels and traitors of these countries were naturalized as a reward for their political services. Repatriation of German nationals from foreign countries, however, is encouraged and has lately assumed rather large proportions.

Deprivation of Citizenship

Much more was changed in relation to the loss of nationality. In the first place, citizenship can no longer be waived by voluntary act. Withdrawal from German nationality is possible only if granted by the authorities. On the other hand, the Reich frequently inflicts denial of citizenship as a punishment. Naturalization when granted between November 9, 1918, and January 30, 1933, can be revoked if the citizen is deemed "undesirable," mainly for political or racial grounds.[4] In addition, German nationals residing abroad may be deprived of citizenship if their conduct outside the jurisdiction of the Reich is deemed detrimental to German interest, or if they refuse to return on request, or fail to fulfill their military duties. At the same time, confiscation of the property of such persons is permissible. Expatriation is frequently used for the sake of expropriation. A large number of German nationals, mainly emigrated "Non-Aryans" and political dissenters, have been deprived

[4] Law on the withdrawal of naturalization and the forfeiture of citizenship, of July 14, 1933 (RGB. I, p. 480); the law expired on July 15, 1935, after some ten thousand, mostly Eastern Jews, had been de-naturalized.

of their citizenship and their property. The list of notable men in this category is headed by Thomas Mann and Albert Einstein.

"Citizens" and "Nationals"

Finally, the Reich Citizenship Act of 1935, one of the Nuremberg laws, announced a seemingly fundamental distinction between full-fledged citizens (*Reichsbuerger*) and mere "nationals" (*Staatsangehoerige*). Only a person of German or "racially similar blood," "who proves by his conduct that he is willing and capable of serving loyally the German national state" is a citizen. On the other hand, German nationals or subjects are described by a subtle definition as those "who, while being members of the protective union of the German Reich, are accordingly under special obligation towards the same." As would be expected, on closer inspection this high-sounding distinction served exclusively the purposes of anti-Semitic discrimination. Jews were the only category struck by the law. They are not citizens. No other case is recorded of a person's losing his nationality because of racial incongruity. Nor has anyone thus far received the Reich citizenship certificate promised to full-fledged citizens. All those, except Jews, who possessed, on the day of the enactment of the law, the right to vote for the Reichstag or acquired it thereafter, are considered full citizens. To treat Germans other than Jews as second-rate citizens, if such a division for political reasons were feasible, would have gravely endangered the much-advertised "unity" of the German people and widened the existing cleavage between party loyalists and other Germans.

Foreign Minorities Within the Jurisdiction of the Reich

When Germany established a "protectorate" over the remainder of Czecho-Slovakia (Bohemia and Moravia, and Slovakia, respectively), German citizenship was bestowed only on those former Czechoslovakian citizens who were racially Germans or who recog-

nized Germany as their mother-country. They occupy a privileged position, but at the same time they are placed under German courts for such crimes as involve German law. The twelve or more millions of Czechs and Slovaks are named as nationals of their respective territories. Their actual position is undefinable at present. From the viewpoint of Germany, they occupy a place between Germans and Jews, and they are granted such rights as fit the expediency of the German master-race for which they toil.

A different lot seems to be held in store for the Polish population living at present in the reannexed territories of the Corridor and Upper Silesia. Evidently an ethnical consolidation on a gigantic scale is planned. The Poles are to be transferred compulsorily to what may become a Polish buffer state while their places are filled by repatriated Germans from the Baltic States and other countries with German minorities.

Finally, it may be remembered that within Germany there still live a considerable number of foreign minorities, particularly the Poles and Danes in Germany proper, and other nationalities in what was formerly Austria. Here even the National Socialist doctrine admits that the despised Weimar Constitution is still in force, guaranteeing to all political minorities full protection and preservation of their cultural and linguistic development. In practice, however, although Germanization is officially deprecated, the treatment of such minorities depends on the power of the neighboring country to resist Germanization. Moreover, the Reich has declared that foreign minorities openly or clandestinely aiming at dismemberment of the Reich, indulging in Irredentism, or cutting loose from the Reich, automatically forfeit its protection and may be dealt with at its discretion. Self-preservation takes precedence over the respect for foreign minorities. Self-determination evidently has a different ring when applied by or when invoked against the Third Reich.

SECTION FIVE

THE SERVICE-STATE

CHAPTER 1

THE "SERVICE FRAMES" (*DIENSTORDNUNGEN*)

Totalitarian Organization of Daily Life

Under the Third Reich the German citizen ceases to be a private individual. The range of private action has been narrowed, the sphere of state action has been enlarged, to such an extent that he has become de-personalized. He is nothing but an infinitely small part of the cogwheel machinery of the totalitarian state. Obviously, the hold over the people will be safer if the party can bore its way into economic institutions and control the actions of the individual as well as his mind. The result is that the German is never left alone, that he is always one among many other human beings living in a similar condition of submission. Political domination of the movement over the masses can entrench itself only if it infuses itself into the channels of daily life by organization, regimentation, and control. Moreover, since 1935, penetration of the totalitarian apparatus into economic life has increasingly served the purposes of war preparedness prerequisite for the bid for world power.

Certainly the apparent success of the process has been facilitated by the "herd instinct" engendered among Germans by tradition and education. As a member of an organized and commanded

mass, the individual feels relieved from responsibility. His sense of social values is enhanced by cooperation and organization, in which he takes a national pride. On the other hand, the constant attention paid by the state to the individual instills in him a feeling of security and the consciousness that if he does as he is told he is safe in his profession and will win social acclaim. A good deal of what has been justly observed as the "rejuvenation" of Germany under Hitler and the revival of self-confidence springs from this reciprocal attitude between state and citizen who, if he compares his lot today with the utter desolation and loneliness in the depression years before 1933, may honestly think that the new values of stern paternalism are not too dearly bought.

Thus, the position of the German citizen under National Socialism is determined generally by status and not by any voluntary contract individually arrived at. From the cradle to the grave he is compelled to pass through the various frames of service (*Dienstordnungen*) and neo-feudal organizations (*Staende*) that the state has provided for him. Beginning with his education in the Hitler Youth, he moves into actual service for the state as a member of the labor service and the armed forces. Finally, whatever profession he may choose, he becomes a member of the compulsory occupational organization indispensable for the exercise of his calling. Rare indeed is the man who can afford to remain outside as a mere onlooker. Branded as a parasite, he would soon find himself an outcast from the stream of social life. Collectivization of society has reached a maximum unequalled in any other modern state, with the possible exception of Russia. Seen from above, Germany appears to be covered with overlapping circles of economic organizations and service frames, embracing all the strata of the population under the totalitarian control of state and party fused into one. These service frames are functional as well as educational, partly for purposes of party indoctrination, partly for instilling into the individual a sense of dependence on the whole, and *vice versa*. The essence of the new feudalization consists in the fact that the individual cannot choose, but is bound by public

duty to belong to one of the service frames. Some of them—such as the army and the civil service—are traditionally integrated into the state machinery; others—such as the professional associations —were originally party institutions, and were afterwards taken over by the state; still others—such as the labor service and the huge professional organizations of the "estates"—are new creations of the regime run by the party in the name of the state.

Character of the Public Service

Since participation in a service frame and membership in one of the occupational organizations, stripped of all voluntary or contractual implication whatever, is a public duty, it is conceived of as demanding a special kind of relationship to state and party which is styled "loyalty" (*Treue*). This is an almost untranslatable term implying fidelity as well as devotion and sacrifice. It goes beyond professional duty or efficiency. It is intrinsically mystical, transcendental, romantic, and is part and parcel of the political theology of the regime. Loyalty is offered to the person of the "Fuehrer," to whom each individual member of a service frame is—or should feel himself—bound. Breach of loyalty is treason to the "Fuehrer." This loyalty is made more real by the assumption that "Fuehrer" and "followers" (*Gefolgschaft*) are tied together mutually, transforming an otherwise soulless mechanism into a living "community" (*Gemeinschaft*), under orders, discipline, devotion, and comradeship, something described as very virile, very inspiring, and based on obedience as much as on confidence. How much of this word-magic is real, or how real is the weariness with which the average German fulfills the exactions of the totalitarian state, will be of decisive influence on the ultimate outcome of the test to which the experiment of mass control by mass organization is being put through the war.

The "Service Frames"

(1) labor service

The labor service, though hailed as an invention of the regime, was introduced by the Republic on a voluntary basis, for much the same reasons—for relieving the unemployment situation and for removing young people from the streets to healthy surroundings. National Socialism, after its advent to power, soon abandoned its voluntary character for outright conscription.[1] It begins at the age of 19 and lasts for six months, which must be spent in labor camps. Girls entering remunerative occupations must show that they have served six months in households or agriculture. Universal compulsory service for girls was announced in July 1939. The organization is similar to that of the army. Leaders and *Amtswalter* especially trained and serving for ten years, are the permanent staff, all without exception deserving party members, drawn particularly from the SA. Members are under military discipline. The Labor camps are one of the highlights of the regime and are readily shown to foreigners. With their magnificent material, the German youth of all classes, and their well-planned and useful work in drainage, reforestation, road-building, and settlement, they are indeed something to be proud of. They serve for leveling class distinctions and give the book-worms and stay-at-homes a taste of hard work in the fresh air. At the same time, the labor service offers a welcome opportunity to the authorities for intensive indoctrination; and, incidentally, it takes more than half a million men a year from the labor market, which is one of the explanations of the miracle of "wiping out unemployment."

(2) military service

As a rule, the young German proceeds from the labor service to the military service. It is now commonly considered one of the supreme mistakes of Versailles to have deprived a "military-

[1] Reich Labor Service Act, of July 26, 1935 (RGB. I, p. 769).

minded" nation like Germany of the right of conscription and to have limited the army to merely 100,000 professional soldiers. No previous measure of the regime was, therefore, greeted with such unanimous acclaim as the reintroduction of conscription, which Hitler sprang on the nation and the world in March 1935.[2] The defence forces consist of the three branches of the army, the navy, and the air force—the latter equal in social prestige to the cavalry in former times. The exact number of corps and divisions is unknown, since recent shifts in preparation for the war are shrouded in a veil of secrecy. Every able-bodied German must serve two years. Jews are excluded; Jewish "mixed offspring," though compelled to serve, cannot attain any rank, not even that of a corporal. Political activities are prohibited for members of the armed forces of all ranks. Even membership in the NSDAP and the right to vote are in abeyance—a concession won from the party by the generals, who feared that Nazi indoctrination during the service would be harmful to military discipline.

(3) CIVIL SERVICE

The full impact of the change in position and function of the civil service (*Beamtentum*) can be measured only in comparison to the situation before 1933. When still in opposition, National Socialism untiringly repeated the complaint that the Weimar "system," through the vices of party bias and parliamentarism, had destroyed the traditional honesty and efficiency of the civil service; that the parties controlling the government had filled the positions with "party-book" officials whose only qualification was membership in a government party, while political non-conformists were unduly excluded. Whatever the faults of the Republic, its record in matters of bureaucracy and civil service is beyond reproach. It failed crucially, however, in not purging the personnel of anti-republican members. Even though many of the officials were un-

[2] See law on the establishment of the defense force, of March 16, 1935 (RGB. I, p. 375) and the Defense Act (*Reichswehrgesetz*) of May 21, 1935 (RGB. I, p. 609).

favorably disposed towards democracy, the tradition of political neutrality prevailed. Administration was conducted, on the whole, for the general welfare, not for specific party interests.

When the Nazis seized power, almost their first major piece of legislation, the ominous government decree "for the restoration of the professional service" [3] served as the basis for methodically combing out from the civil service "Non-Aryans" as well as "politically unreliable" officials. For the first time in German history, the "spoils system" became a legally recognized principle of government. Vacancies were filled with partisans, regardless of professional efficiency and frequently even of training. The entire system of appointments and promotions was revolutionized in order to bring the civil service of Reich and Laender under party control. Finally, the codification in the Public Officials Act of 1937,[4] deliberately uprooting the tradition, converted the civil service into an instrument of political domination. No longer a politically neutral expert, the public official is now an exponent of the National Socialist "world-outlook." Unconditional defense of the political aims of the regime now takes precedence over objective administrative efficiency. The German official pledges personal allegiance and unreserved obedience to the person of the "Fuehrer" himself, instead of to the abstract notion of the state or to the fulfilment of his duties. Technical qualification for the office, formerly established by special training and competitive examinations as the exclusive basis for appointment, is now less important than political reliability. At present no appointment, except to minor positions, is possible unless the applicant is a tested member of the party and has undergone special training in the party doctrine. In all appointments, nominally reserved for the "Fuehrer" himself, the Deputy-Leader of the party (Hess) participates.[5] The membership badge as technical qualification for office is, according to reports of un-

[3] Law of April 7, 1933 (RGB. I, p. 175).

[4] *Deutsches Beamtengesetz*, of January 26, 1937 (RGB. I, p. 39).

[5] Edict of the "Fuehrer," of September 24, 1935 (RGB. I, p. 1203). See also Regulations for the training of judicial officers (*Justizausbildungsordnung*), of July 22, 1934 (RGB. I, p. 727).

biased observers, responsible for the decay of administrative efficiency in almost all walks of public life. Even the Public Officials Act, which takes great pains to return, at least on paper, to the traditional concepts of public service, contains so many political reservations and pitfalls that security of tenure continues to depend on political conformity. No category of officials escapes the constant scrutiny of the party zealots as to devotion to the cause of the regime. The stability of the regime has immensely benefited from the fact that public officials are political tools. It should be added that the number of administrative offices and beneficiaries in state and party has inordinately increased under the totalitarian Third Reich, another contribution to the miracle of "wiping out unemployment." There are fields in which the havoc wrought by the Third Reich may be irreparable. Civil Service and public administration, for which Germany was famed for centuries, may be among them.

(4) THE LIBERAL PROFESSIONS

National Socialism organized all professions "affected with public interest" into compulsory service frames, whose members have definite duties towards the state and the public—duties which are determined by National Socialist concepts. This innovation conceives of the lawyer, notary, doctor, veterinary, apothecary, pharmacist, or engineer as a quasi-official whose professional duties should take precedence over his private interests. Such professional organizations are a sort of modern imitation of medieval guilds. The members, admitted only after a rigorous process of selection from the viewpoint of party loyalty, perform a public service and are subject to professional regulations (*Dienstordnung*) which emphasize invariably that the profession of the lawyer (doctor, notary, etc.) is not a trade but service for justice (public health, etc.). In practice such "guilds" produce less a new code of professional ethics than political uniformity and conformity to the standards of the regime. Party-recruited supervisory boards, composed of members of the profession, guarantee, by their power to

revoke licenses, the submission of the members. Thus the backbone of potential opposition, which under dictatorships comes most frequently from the professional intelligentsia, who are independent of the state, is broken.

CHAPTER 2

THE "ESTATES"

General Character

Far more difficult, because of the amorphous character of social life in a modern state given to the division of labor, was the task of the regime of establishing political control over economic and cultural occupations in general. Under private capitalism, the influence of more or less spontaneously created organizations and of associations of specific economic interests, which have grown up organically, is a common feature. Such organizations exist in all states for capital and labor, employees and employers, trade, agriculture, and, to a lesser extent, also for the consumers and the petty bourgoisie, in Germany called by the rather untranslatable term *Mittelstand*. They function in the main as political pressure groups or lobbies for the furtherance of their occupational objectives. In a parliamentary democracy, they use the large political parties for their economic purposes. In Germany they even formed specific economic-interest parties. Politics were increasingly fused with economics, and economics increasingly determined politics. This system of economic pluralism, in which the state played only the role of a neutral umpire destined to compromise between conflicting economic interests, provided the National Socialists with particularly effective ammunition during their fight against the Republic.

Consequently, once in power, the regime set out to reverse the situation: Politics should be given precedence over economics; economics should be strictly subordinated to the political aims of the government, instead of political institutions being utilized for

private economic interests. The entire economic forces of the nation were to become instrumentalities of the political leadership (*Staatsfuehrung*). The technical device for this task was that of organizing society into the frame of economic and cultural "estates" (*Staende*).

It is indicative of the eminently realistic sense of the regime that the system of estates bears only a superficial resemblance to the Italian corporative state. While the latter is intended, at least in theory, to provide for economic autonomy and administrative self-government of the different economic groups, the estates in Germany admittedly are only agencies for the control of economic and cultural life by the state and the party. They do not participate in the formation of the economic policies dictated by the state. The people take the "folkish ordering of life" (*voelkische Lebensordnung*) at its face value. It serves as an empirical device for entrenching the regime and for economic mobilization for war. It matters little that the estates are said to possess, in terms of the statutes creating them, "autonomy," or that a paramount educational function is ascribed to them, which the Nazis call rather cryptically "guidance of men" (*Menschenfuehrung*). What matters most to the individual is that the estates too are equipped with regulatory powers over the members included in the professional frame. Thus Mr. Everyman has to take orders and instructions from another master, who, incidentally, is again the party-controlled state.

At present five such "estates" are in existence: (1) The Labor Front, the mammoth organization regulating relations between capital and labor, and embracing both; (2) Trade and industry; (3) The artisans (crafts); (4) Agriculture ("the Nutrition estate"); and (5) The cultural "estate."

German Socialism

According to the National Socialist doctrine, productive society rests on three pillars. The first is labor (*Arbeit*), to which the high-

est social value is attached. Even the currency is based on labor and not on soulless gold. The second is soil, in which the farmer (*Bauer*) is rooted. Finally, there is the production of goods, for which capital, symbolized by the entrepreneur (*Unternehmer*), is responsible. The interplay of these three sections of economic life, under the control of the state, is what the doctrine praises as "German socialism." In weeding out the purely acquisitive character of capital, and in making the work of the laborer and the farmer both a personal honor and a national duty, the Nazis pretend to have inaugurated a socialistic millennium of typically German flavor. Of this so much at least is true, that worker, farmer, entrepreneur, and consumer alike feel the heavy hand of the state, that none is exempted from its totalitarian control. If equality of sacrifice and uniform exposure to regimentation is the mark of socialism, the Third Reich certainly may claim to be a Nationalistic and a Socialistic state.

The Four-Year Plan

Germany's social life—and with it the mirage of German "socialism"—was revolutionized by the introduction of the Four-Year Plan in 1936. Deeply conscious that Germany lost the last war mainly because the blockade cut off her foodstuffs and raw materials, Hitler decided that Germany, through her master-chemists, engineers, and agriculturists, should become economically self-sufficient and should produce what she needs in peace and war on her own soil and from her own internal resources. Goering, as Commissioner for the Four-Year Plan, was made economic dictator [1] for the execution of this gigantic task of establishing autarchy in a country which normally depends for a large precentage of both food and raw materials on imports and the free interplay of goods and currencies. In due course the Four-Year Plan came to dominate German economic and social life entirely. In 1939 the

[1] Ordinance of the Fuehrer for the execution of the Four-Year Plan, of October 18, 1936 (RGB. I, p. 887).

Ministry of Economics was practically subordinated to the Four-Year Plan administration. For the mobilization of all economic resources in man-power, materials, and plant equipment, all principles of orthodox or even normal economics, as well as most of the policies and postulates derived from the concepts of new socialism, were jettisoned. The totalitarian war was anticipated by the totalitarian peace. Germany under the Four-Year Plan had become a system of pure and undiluted state capitalism strained to the utmost for war preparedness, to which all tenets of National Socialism are subordinated.

(1) The Labor Front

When attempting to appraise the position of capital and labor under National Socialism, one has to distinguish between the Labor Front as the organizational frame which embraces both labor and capital, on the one hand, and the regulation of labor conditions in the individual plant or store, on the other hand, which, though determined individually, must conform to the general standards of the Labor Code of January 1934, another "organic" statute of the Third Reich.[2]

The Labor Front was established under the leadership of Dr. Ley after the NSDAP had seized, on May 2, 1933, the socialist trade unions, the backbone of the Marxian socialism, and confiscated their huge property for the state. At first intended only for the compulsory coordination of the trade unions, the Labor Front, after a good deal of experimentation, rose to be the exclusive organization of both labor and capital.[3] Absorbing factually the multiple associations of employers and employees, it became in economics the counterpart of the monopoly of the party in politics. Simplification and centralization served best the purposes of political control

[2] Law for the regulation of national labor, of January 20, 1934 (RGB. I, p. 45).

[3] The Labor Front received its formal constitution on October 24, 1934. By an ordinance of the Fuehrer of March 29, 1935 (RGB. I, p. 502) it was declared part of the NSDAP as an "affiliated association."

by state and party. At present there exist eighteen "National Enterprise Communities" (*Reichsbetriebsgemeinschaften*), grouped in line with the principal industries and subdivided territorially into regions, districts, and locals. In each case both employers and employees are included. Membership can be obtained either through membership in one of the employers' associations or, for the workers, individually. In practice, membership is compulsory for both employers and workers. Not only workers, but also most of the independent artisans and small employers are members. One may describe the Labor Front as one monopolistic party-controlled trade union for both capital and labor, if one understands the term "trade union" correctly as denoting, not a representation of labor interests, but a totalitarian institution of the state for regimenting the entire industrial life of the nation.

Today the Labor Front is a huge bureaucratic organization, with about thirty million members, the largest group of its kind in the world, with magnificent offices in each capital and large town. Moreover, through that notorious part of its activity which is called the "Strength-Through-Joy" organization (*Kraft durch Freude*), it is an enormous business undertaking in its own right. Its budget is fed by compulsory contributions of workers and employers and —after covering the inappropriately high administrative expenses, estimated at some 20 to 30% of the total income—is devoted wholly to instilling National Socialist propaganda into the workers. Very little goes to the workers in the form of financial support because unemployment has disappeared owing to the armament boom and the absorption of millions of men by the cadres of conscription and the offices of state and party.

The main purpose of the Labor Front is educational. It purports to be the answer of National Socialism to the idea of the class struggle. Capital and labor have sunk their differences under the benevolent paternalism of the state, says the doctrine, and are well on the road towards the true "people's community" where both vie with each other in unselfishly promoting national interests.

Strikes and lock-outs have no place in the people's community. In fact, they are punishable as treason. In practice, the Labor Front is a mechanism for economic and political control of industrialists and workers and for instilling into both the principles of National Socialism.

(a) "Strength-Through-Joy"

Control and indoctrination are masterfully combined in that activity of the Labor Front which deservedly has attracted most attention: the "Strength-Through-Joy" movement. Copied from the *Dopolavoro* organization of the Fascist party in Italy, though considerably improved upon, it takes care of the leisure time of the workers and their families, and provides the most variegated program of entertainment and education imaginable. Sports, theater, concerts, lectures, hobbies are under the sponsorship of the party officials. Last, but not least, the German "wanderlust" is cultivated. "Strength-Through-Joy" functions as an official tourist and travel bureau, which makes accessible to the workers for comparatively little money the wonders of the world, formerly open only to the privileged rich. It runs hotels, beaches, a flotilla of excursion ships, and even a motorcar factory which promises to each German a car for about $400 in easy instalments. The idea behind these manifold activities is never to leave the worker alone, not even after work, and to make him conscious of the omnipresent solicitude of the regime. Whatever he does, he is under the eyes of the party spies. Mass-control does not admit of privacy.

In addition, the Labor Front practises what is the much-quoted concept of "dignity of work." The manual worker must enjoy working. Long hours and low wages are to be compensated for by stimulating surroundings for work. The worker's place, it is emphasized, is the place of honor in the national community. Much is done to beautify the plant, both by workers and employers. Sanitary conditions and clean, bright, well-kept plants testify to the care of the Labor Front officials.

(b) The Position of Labor

The new concept of labor as the highest of social values could not fail to affect deeply the position of labor within the "people's community." The Labor Code of January 1934, while abolishing all collective rights of labor as a class, sanctifies labor as a social institution. The owner of the plant or store is the "leader of the enterprise," employees and workers are his "followers" or "retinue," thus proclaiming the leadership principle in business. The new feudality is reflected in the new ethics of labor relations. Labor is stripped of its character as a private right, operating between freely contracting parties, and raised to the higher level of a social duty subject to guidance and control by state and party. The "leader of the enterprise" must take care of the welfare of his "followers," while the latter have to keep "loyalty" to the entrepreneur and the enterprise. Loyalty to the "shop community" is enforced by the local Labor Trustee (*Treuhaender der Arbeit*), a government official taken from the ranks of the party loyalists.[4] A shop council (*Vertrauensrat*) has a consultative voice in minor matters concerning the operation of the enterprise, such as working conditions within the plant, protection from accidents, and maintenance of good relations among the employees. For the members of the shop council elections were prescribed, but, against the letter of the law, they have been indefinitely postponed since 1935 because in the two preceding elections the workers failed lamentably to respond to the Nazi tickets in the individual plants. The "leader of the enterprise" is, however, undisputed master in determining the management of the business—within the confines of party control. Prior to the introduction of the Four-Year Plan, the Labor Trustee had important functions in the regulation of wages and hours in the individual plant, or for whole groups of an industry; in the dismissal of workers, which he could prohibit; and particularly as a "Social Honor Judge," who punished infringment of labor ethics by both employers and employees.

[4] See law of May 19, 1933 (RGB. I, p. 285).

Most of such improvements in the status of labor were thrown overboard under the Four-Year Plan. The problem of creating labor for the unemployed (*Arbeitsbeschaffung*), the pivotal point of labor policies before 1936, transformed itself into the problem of overcoming shortage in raw materials, caused by the lack of transferable currency, and of finding the workers for the immensely increased production of war material under the whip of autarchy. The supreme task of economic mobilization for the coming war overshadowed all other interests. The eight-hour working day, though nominally still in force, has given way to the ten-hour day; in industries "of political importance for the state," twelve hours and more have to be worked and paid for.[5] No wonder that the workers in the factories, feeling the pressure of the inadequate food situation and the increasing speed-up system (*Arbeitssteigerung*), an illegitimate child of Russian Stakhanovism, are becoming restless and sullen. Wages, at first stabilized at the lowest level of the depression, have not been increased in conformity with the decreased purchasing power and the rise in the cost of living. Moreover, distribution of labor (*Arbeitseinsatz*) is now regulated strictly by the state. The worker is as much tied to the plant as the farmer is tied to his farm. All previous measures for creating jobs by eliminating women, substituting older workers for younger men, married workers for unmarried, transfer of industrial workers to agriculture, are outmoded. Free movement of labor in the labor market is no longer possible. No worker in one of the "nationally important" industries —a category constantly enlarged—may leave his job without permission of the labor authorities. In 1935 the "labor-book" was introduced[6] in which every change of job must be entered. All young people on leaving school have to be registered with the official employment agencies in order to be placed according to the needs of industry, and no longer according to their own prefer-

[5] See law on working hours (*Arbeitszeitordnung*) of April 30, 1938 (RGB. I, p. 447).

[6] Law of February 28, 1935 (RGB. I, p. 311). See also Ordinance of April 24, 1939 (RGB. I, p. 824).

ences. Regimentation of labor reached its climax when, in June 1938, the Commissioner for the Four-Year Plan decreed universal labor conscription for all Germans.[7] The President of the Labor Office can assign to anybody, irrespective of his present occupation, any kind of work or employment for an indefinite period. No worker or employee may leave a job without his permission. Whoever is called upon must undergo training in any labor assigned to him. Hundreds of thousands of workers have been transferred against their will to do work on fortifications and other "nationally important" undertakings. Shops have been closed down and the owners conscripted for work in the factories. Military conscription is supplemented by universal labor conscription. The result of this extraordinary situation under the Four-Year Plan is that everybody, worker or non-worker, is the helpless serf of the state. Freedom to choose one's place of work or even one's calling no longer exists. The entire nation has to slave for the new Pharaoh called the state as had the Jews for the old Pharaoh in ancient Egypt.

(2) The "Estate" of Trade and Industry

(a) Organization

If it is true that industry and big business helped Hitler into the saddle in order to get rid of the interference of organized socialism, they have found a much sterner master in National Socialism. Although the process of coordination of business under the restraining influence of Dr. Schacht was less rapid and more cautious, trade and industry are today no less under the heel of the regime than all the other professional groups. The scheme finally adopted for controlling trade, industry, and crafts (grouped together under the term *Gewerbliche Wirtschaft*) was remarkably indifferent to corporative mythology and eminently pragmatic. The "estate" of Trade and Industry was founded in 1934.[8] Wide powers were as-

[7] Ordinance of June 22, 1938 (RGB. I, p. 652).

[8] Law "on the preparation of the organic reconstruction of German economy," of Feb. 27, 1934 (RGB. I, p. 185).

signed to the Minister of Economics for dissolving, constituting, and merging economic associations of industrial or commercial character; for enjoining on individual enterprises or individual persons membership in, and control by, professional associations; and for appointing leaders and officials for such groups and associations. Six super-groups exist: industry, crafts, trade, banks, insurance, and energy (electricity and water power). Each group is split into various occupational sub-groups, in addition to regional subdivisions corresponding to the fourteen districts of the Trustees of Labor. The entire industrial and commercial system is covered with a network of rather elastic associations, linking together productive enterprises of related interests, all under leaders appointed by the state (incidentally, not all of them party members). As a result, each individual enterprise or business is brought into a frame of dependency upon the state, which supervises production, distribution, marketing, prices and wages, quality and quantity of production. As representation of regional groups serve the various Economic Chambers (*Wirtschaftskammer*), topped by the Reich Economic Chamber as the central representation of occupational and regional groups. The system is further complicated by collateral and overlapping organizations destined to establish contacts with related industries and other "estates." The "estate" is also equipped with Honor Courts for industry and trade, empowered to enjoin upon the members the ethics of the "honest merchant." Of particular interest is the combination of these organizations of entrepreneurs and independent business men with the Labor Front. When the antagonism between the different classes of capital and labor, allegedly buried by the establishment of the Labor Front, threatened to break through the organizational frame, the regime imposed upon big business and industry ultimate control in the famous Leipzig Agreement of March 21, 1935, concluded between Dr. Schacht and Dr. Ley, by incorporating the organizations of the entrepreneurs into the Labor Front itself, thus bringing the giant branch of trade, industry, and crafts fully under the domination of state and party.

(b) Position of the Business Man

The present position of capital, meaning thereby the independent business man and industrialist, can be understood only on the background of state-controlled economy (*Zwangswirtschaft*) inaugurated prior to, and fully developed under, the Four-Year Plan since 1936. Economic life in the Third Reich presents itself as the first large-scale experiment, outside Soviet Russia, in state-planned or regimented economy of a totalitarian character. Economics are subordinated to politics to the extent of completely disregarding commonly accepted economic laws. The devices developed during the last few years are as varied as they are ingenious and effective.

Since a detailed description would surpass the scope of this book, only the following aspects of totalitarian control of economic life may be mentioned:

(a) Managed currency and state-controlled credits: Germany today lives under a controlled inflation, the currency being based rather on productive work than on gold or foreign exchange. "Credit expansion" by a variety of methods serves for labor creation and the objectives of "military preparedness." Credit from state-controlled banks is available only for industrial purposes agreed on by the Four-Year-Plan authorities and the Supervisory Boards (*Aufsichtsstelle*). Surplus profits resulting from the armament boom must be invested in government loans. The money market is exclusively at the disposal of the government.

(b) Stabilization of prices: In order to embark on an inflationary course without frightening the common man who had not forgotten the experience of the inflation of 1923, the regime resorted to the world-war device of freezing wages through rigid control by the Trustees of Labor and the Commissioner for the Four-Year Plan, respectively, while at the same time rigidly stabilizing prices of commodities, capital goods, and services. As early as 1934 the institution of the Reich Price Commissioner, well known during the war and the depression, reappeared. Price control is strictly en-

forced and grudgingly obeyed. The system of price control is coupled with:

(c) Rationing of food and raw materials, much of which are obtained by barter. Here another set of Supervisory Boards came into existence. They function today for practically all commodities (e.g. textiles, metals, fats, iron and steel, most food stuffs, coal, and salt). The Boards supervise production, distribution, marketing, storing, and consumption of goods under control. Long before the start of actual warfare, the consumer was subjected to a rationing system similar to that employed during the war. In all industries the ominous *Ersatz* (substitute) has entered daily life, borne with sullen acquiescence in view of Dr. Goebbels' watchword that "cannons are better than butter."

(d) Finally, the common feature of private capitalism, namely, trusts or combines, in Germany called "cartels," is widely used by the regime for bringing industrial production and public utilities under the control of the state. The Reich Economics Minister and now the officials of the Four-Year Plan can demand the opening of new establishments and the closing down of existing ones. They can prescribe types, quality, and quantity of production, as well as prices, wages, markets, and investments. The business man is forced into or driven out of business according to the needs of war preparedness. Individual enterprises, as well as whole groups of industrial production, are tied into the strait-jacket of absolute economic compulsion by the state.

The business man at least realized long before the official German-Russian alignment that the roads of Red and Brown Bolshevism had finally converged. His lot under National Socialism is little better than that of the worker. The margin of private initiative has dwindled. His business is "on trust" for the state. The owner is only the manager—a highly paid one, to be sure—for the state, which owns and directs his business. His tangible compensation is the "good life" which he enjoys. Profits under the armament boom are huge. As in every inflation, whether open or concealed, spending is rampant. But he feels that the money which

flows so freely through his hand is not the money he would like to keep.

(3) The "Estate" of the Crafts

By similar methods of pressure, propaganda, and organization, the widely diversified world of craftsmen and artisans has also been brought under state and party control. The existing "guilds" of crafts (*Innung*) served as the *nuclei* of the compulsory organization.[9] Compulsory membership and the leadership principle were introduced. At first, in conformity with the promises of the party, much was done to encourage the handicrafts which were in danger of being submerged by the machine age. Under the impact of war preparedness, however, independent artisans, once the staunchest supporters of the rising movement, were among the social classes hardest hit. Within the streamlined frame of self-sufficiency and centralized military economy no room was left for the small and uneconomically handled independent business serving only the local market. Lack of raw materials and shortage of labor drove the middle class business men out of independent existence and into the factories. It was exactly that fear of proletarization which had led the petty bourgoisie to endorse the regime. It seems that an entire class and by no means the least valuable, was sacrificed to the Moloch of military preparedness for the coming war.

(4) The "Estate" of Agriculture

(a) The "Hereditary Farmer"

Of all callings, that of the farmer is least accessible to regimentation. Tilling his soil by the sweat of his brow, bound by the inexorable law of the seasons, his profession is the most individualistic and at the same time the most conservative. Yet the regime succeeded in integrating the farmer as completely into the totalitarian state as the worker or business man. This result, one of the greatest

[9] Law on the preliminary structure of German crafts, of November 29, 1933 (RGB. I, p. 1015).

triumphs of National Socialist psychological insight and organization, was obtained by offering to the farmer at once a new social status and tangible economic benefits—exactly what the Republic, in spite of powerful agrarian parties, had neglected to do for the "forgotten man." The new social status was bestowed by a genuine "ennobling act," the Hereditary Farm Law of 1933.[10] The gist of the new legislation was to make the farmers a truly privileged class in neo-feudalized society, under a special private law. From the holiness of the soil radiates all that is dear to the doctrine of National Socialism. Purity of the race, economic independence of the farming class, as the backbone of national defense, and the spiritual values flowing from contact with the soil, are looked upon as the fountainhead of national strength. This law, as the manifest fruition of the "blood and soil" dogma, creates a new peasant nobility, independent of economic fluctuations, an effective counterweight to undesirable urbanization. Soil is no longer to be an object for materialistic speculation like any other fungible good, but a sacred trust of the owner for his family and the whole community. All estates up to about three hundred acres are compulsorily converted into hereditary homesteads (*Erbhof*) if they are capable of supporting a farmer's family. The owner is the bearer of a new title of nobility (*Erbhofbauer*). Upon the farmer's death the estate passes undivided to his eldest (or youngest) son or the nearest male relative. The other children are entitled to claim support from the farm, and, in turn, are liable to service on the farm. The younger generation at first was threatened with becoming a new class of *glebae adscripti,* yoked under the new bondage in the name of blood and soil. Such effects, however, were offset by the labor shortage under the Four-Year Plan, which drives large parts of the farming population into the cities and factories. As a corollary to the protection by the state, the owner has no right to sell or to

[10] *Erbhofgesetz,* of September 29, 1933 (RGB. I, p. 685). Once more the idea incorporated in the law is by no means an invention of the regime. It was borrowed unscrupulously from legislation existing in some of the German Laender for many centuries.

mortgage the farm, or parts thereof, without permission of his local Hereditary Farm Tribunal; and the farm and its accessories cannot be attached by his creditors. While the soil is thus made sacred and inalienable, in practice the situation has become double-edged for the farmer. Private credit is scarcely available to him because of the impossibility of attachment or mortgage. Not a few farmers are deeply resentful, especially since the hereditary farms are no less subject to state regimentation than all other agricultural occupations. "Non-Aryans," of course, cannot be hereditary farmers. The new system of entails was extended, in June 1939, also to the *latifundia* of the Prussian Junkers, which the Nazis, in spite of nominal abolition of this remnant of feudalism in the republic, did not dare to touch.

(b) The "Nutrition Estate"

The agricultural estate was founded as early as July 1933.[11] On the whole, the agricultural estate is less artificial and corresponds more closely to the natural homogeneity of professional interests than all the other spurious creations of the neo-feudal system of the Third Reich taken together. Under the leadership of the Minister of Agriculture (Darré), the Nutrition estate embraces all persons occupied in and deriving their income from agriculture in the broadest sense of the term, including the growing or producing of agricultural products proper (together with dairying, horticulture, winegrowing, fishing, bee-keeping, and hunting) as well as all manufacturers of agricultural products (including beer, sugar, meat, lumbering, and liquor), with corresponding influence on the guilds of millers, bakers, butchers, and whoever has to do with victualling the population. In particular, the Minister was empowered to fix prices, and to combine growers, producers, manufacturers, and distributors into groups and associations. Coordination with the party and the leadership principle was established

[11] Law of July 15, 1933 (RGB. I, p. 495) and Law "on the preliminary structure of the Reich nutrition estate," of October 13, 1933 (RGB. I, p. 626); see also Ordinance of December 8, 1933 (RGB. I, p. 1060).

through the Reich Peasants Leader (again Darré) with his elaborate staff, the Farmers' Councils of appointed advisers, and all the trimmings of a full-fledged controlling bureaucracy. The "Nutrition Guild" is subdivided into regional districts and local groups, each under a "leader." No village or hamlet fails to have its local boss who holds the farmers under his thumb. Nor are "Honor Courts" missing.

This vast organizational frame serves at the same time the purposes of education and regimentation. It prescribes the kinds of products to be grown, methods of production, quantities to be delivered to the state, prices to be charged and obtained, markets to be provided for, either for "combines" (*Zusammenschluesse*) or associations of similar undertakings, or for the individual farmer. Existing agricultural enterprises may be closed down or new ones established, as directed from above. Not even the smallest farmer tilling his soil for home-consumption is left alone. The groups function as supervising and controlling agencies of the state. The farmer has lost even the freedom of planting and growing whatever he thinks fit (*Anbauzwang*).[12] He must take the land under the plow and change from one kind of products to another if so required. If he misuses the land or does not comply with the requirements of the local authorities, or if he is responsible for less yield of the soil than is computed in advance, he may be deprived of the right to run and even to own his farm. Long before the war broke out the German householder was enrolled for most of the foodstuffs in one retailer's shop from which he receives, if available, the rationed quantities, a system closely resembling the food-rationing cards during the last war.

As to actual agricultural policy, National Socialism took care at first to privilege farmers, the spoiled children of the regime, by such measures as protecting him against foreclosure and execution of judgments, abating his debts by new insolvency procedures, and by compelling private creditors to consent to substantial reductions

[12] Introduced by Ordinance of the Commissioner for the Four-Year Plan, of March 23, 1937 (RGB. I, p. 422).

of interest. Moreover, prices are protected from foreign competition by throttling imports. The "fair price," as determined by the state, is guaranteed to the farmer. Distribution and marketing are directed by the Supervisory Boards (*Ueberwachungsstelle*), which are important figures on the chess board of home economics, because the German housewife is potentially a much more dangerous enemy than the underground opposition. By skillful manipulation of the markets the level of the food situation, though low, is not dangerously so.

(c) Position of the Farmer

If it is true that the attitude of the farmer decides ultimately the fate of a dictatorial system, it seems that the Third Reich has little to fear from these quarters. Labor shortage, at times felt acutely, was remedied by compulsory devices under the Four-Year Plan and by import of seasonal labor from other countries, lately in particular from Austria, Bohemia and Moravia through conscription. The huge masses of Polish prisoners of war tend for the moment to solve satisfactorily this pressing problem. The lot of the farmer is better than that of most other social classes. He knows that he is indispensable; his social prestige is greatly enhanced; and he is no longer exposed to the vicissitudes of market fluctuations. Whatever he produces is sold in advance. He grumbles more than other classes of the population, and with more impunity. But the regime, through keen psychological insight and organization, has well learned the art of keeping the farmer in good humor.

(5) The "Cultural Estate"

(a) Cultural Activities and Public Opinion

During and after the war, the word *Kultur* was almost a byword for aggressive superciliousness and arrogant assertion of the superiority of German cultural life. Yet, aside from the more crude and trite expressions of intellectual self-consciousness, it must be said that "the nation of poets and thinkers" held its high rank

in the cultural competition of the world, as evidenced by the scholastic, intellectual, and artistic achievements of the Republic. The Nazis when still in opposition assailed the "Jewish-Liberal-Marxist" "asphalt" culture of the Republic and of the metropolitan Babylon, and held out the prospect of a fundamental renovation of cultural values under the Swastika, a "renascence" of the "Hellenic beauty of the Germanic genius" once it was liberated from the fetters of "hybrid international intellectualism."

Without attempting to define precisely what is meant by the term "culture," one may contend that what is called the public opinion of a nation is determined by the totality of its cultural manifestations. National Socialism, bent upon control of public opinion for ferreting out opposition and instilling the tenets of its own creed into the people, could not feel secure without at least the tacit or passive consent of public opinion. No despotism can sit forever on bayonets. Consequently, coordination of public opinion and all cultural activities contributing to it was the first task of the regime, attempted with vigor and accomplished with mastery under the leadership of Dr. Goebbels, Minister of Propaganda and Public Enlightenment and intellectual wizard of the Third Reich.

(b) The Reich Chamber of Culture

The primary task, therefore, was to bring the press, as the foremost organ of public opinion, under the control of the regime. During the consolidating period, opposition and criticism were silenced by outright violence and direct or indirect intimidation. Rapidly the political press was purged of Socialist, liberal, democratic and even conservative personnel. There followed, again through pressure and intimidation, a complete change in ownership. Almost at once, and ever since, the press voiced only the policies of the regime as dictated from above. The masterly device for maintaining and continuing political conformity is the system of licensing all individuals desiring to exercise cultural activities under toleration of the regime.

The organizational structure controlling all cultural activities is

the Reich Chamber of Culture, another "estate," established as early as 1933.[13] As the counterpart of the Labor Front or the Nutrition estate, it is the centralized organization for all cultural activities in the widest sense. The statute declares that "all persons who participate in the production or reproduction, in the intellectual or technical elaboration, the distribution, the preservation, in the sale or as middlemen in the distribution of cultural goods," must be members of one of the affiliated organizations of the Chamber. The Reich Chamber of Culture, again a corporation of public law, embraces, in seven subdivisions (also styled Chambers), the professional associations of writers and authors; journalists and editors; musicians; artists; the personnel of the theaters; of the films, and of radio. Nobody can exercise one of these professions unless he has been admitted as a member of one of the respective groups. If he loses membership through "professional misconduct," that is, almost invariably, by lack of political reliability, he is barred from his profession and exposed to what is aptly styled "professional death." The individual chambers, as well as the Reich Chamber of Culture, may make exercise of the profession dependent on the fulfilment of certain requirements. Little wonder that compulsion or outright violence is no longer needed. No member dares to violate the professional canons dictated by the policies of the regime. Uniform submission is the result of a political religion for which Hitler is Allah and Goebbels his prophet.

Specific statutory regulations exist for all intellectual and cultural activities. Practically, the most important is the law "on Editors" of 1933,[14] which applies to all persons of editorial rank in the journalistic profession. The editor is considered a public official, his function a public task. Exercise of the profession is dependent on enrollment in the list of editors, only such persons being enrolled as are personally and politically qualified. In due course only trusted party members came to hold the key-positions in the daily

[13] Law on the Reich Chamber of Culture, of September 22, 1933 (RGB. I, p. 601).

[14] *Schriftleitergesetz* of October 4, 1933 (RGB. I, p. 713).

press. The editor is subject to disciplinary control by the Press Honor Courts, which may strike him off the roll. Moreover, the Propaganda Minister is entitled to decree his elimination from journalism for "reasons of public welfare." All editors and journalists are compulsory members of the official association of the press (*Reichsverband der deutschen Presse*), one of the departments of the Reich Chamber of Culture.

Similarly organized under closest government control and supervision are the professions of the theater,[15] the film, and, last but not least, the radio. Broadcasting was from the beginning a state-controlled institution in Germany; since the advent of National Socialism it is a government monopoly. As was to be expected, it rose to be the favorite and most effective method of official propaganda, particularly since the monotony and uniformity of the controlled press was reflected in decreased circulation and in indifference of the public.[16]

Certainly, the regime cannot complain about lack of cooperation from the coordinated and subjugated press. But even the official spokesmen are aware that creative art, under the present system of rigid regimentation, has utterly failed to live up to the vast opportunities offered by a regime which is headed by the *ci-devant* artist Adolf Hitler. In a country whose cultural level is determined by the intellectual capabilities of those in political control, the creative spirit of the German race has reached an all-time low.

[15] Law on theaters, of May 15, 1934 (RGB. I, p. 411).

[16] Radios are much cheaper than in 1933 and are found in practically every household. They cannot be attached by the sheriff. In 1937, when a sender operated by the "underground opposition" successfully eluded the Gestapo for a long time, a particularly severe decree was published against private senders (Law "on private senders," of November 24, 1937 [RGB. I, p. 1298]).

CHAPTER 3

EDUCATION AND RELIGION

Outside the frame of controlling agencies called "estates" are those cultural spheres which are circumscribed by the notions of education and religion. Under the Third Reich, they, as much as all other activities, are exposed to indoctrination and interference by state and party.

National Socialism and Education

For a dynamic regime bent on revolutionizing the German nation in mind, soul, and body, penetration into education was of primary concern from the beginning, difficult as it was in a country justly famed for the efficiency, progressive spirit, and liberalism of its educational policies and institutions. In particular the *Gymnasium* (secondary schools for training in the humanities and classics), the vocational schools, and the universities were second to none in the world. Illiteracy in Germany is practically nonexistent.

(1) Elementary Schools

The main purpose of schooling in the Third Reich is to infuse National Socialist spirit and "world outlook" into the younger generation during the most impressionable years and to eliminate all educational influences outside of control by the party. Early in 1934 Hitler entrusted Alfred Rosenberg, the "pontiff of culture" of the regime, with the supervision of the entire educational and spiritual schooling of the NSDAP. The Hitler Youth became an

equal and in fact a superior competitor of the educational monopoly of the state, a situation which resulted frequently in conflicting loyalties between regular schooling and party indoctrination. Private schools were abolished, thus getting rid of the confessional private institutions; the number of confessional state schools attended only by pupils belonging to one of the two Christian denominations (Catholic or Protestant), in which religion is a compulsory part of the curriculum, is still surprisingly great, though, under pressure of the party on the parents, constantly decreasing. Final unification of all schools of the Reich—before 1933 education belonged to the jurisdiction of the Laender—was accomplished as late as 1938 by a government decree.[1] The statute, while containing a goodly number of useful provisions, enjoins explicitly "education and instruction of German youth in the spirit of National Socialism." Consequently the entire curriculum was reformed in order to fit into the Nazi pattern. Textbooks were rewritten. Foremost topics of instruction are: racial questions—in particular anti-Semitism—, political enlightenment in terms of preponderant military needs, *Lebensraum* and political geography, colonial claims, and Germandom under foreign allegiance. In historical material emphasis is placed on Germanic culture and history, cultivation of the customs of the people, population problems, and other courses similarly affected by political interests. Grammar, languages, and arithmetic are considered as of only secondary importance. This educational lubrication results in making the pupil a sort of automaton which unthinkingly repeats instilled party slogans.

Objective observers note that the standard of education in elementary schools is constantly falling. Various factors contribute to this situation. While attendance has considerably increased, the teaching staff has relatively decreased. Shortage of teachers has lately become a genuine calamity. Particularly, many of the younger teachers have turned to careers in the party, where they are welcomed because of their clerical training. An amazingly large per-

[1] Law on the compulsory attendance of schools (*Reichsschulpflichtgesetz*), of July 6, 1938 (RGB. I, p. 799).

centage of higher party officials are recruited from among former elementary school teachers. Decrease in the quality of elementary schools is due also to the constant interruption and disturbance of regular schooling by activities of the pupils in the Hitler Youth, by marching, drilling, and service in public demonstrations. Frequent complaints concerning the deficiencies of elementary-school education are vented by parents and by employers after entry of the graduates into professional life.

(2) Secondary Schools

Enrollment in secondary schools, particularly attendance of girls, has decreased, on the other hand. This situation, surprising in a nation where learning was so highly valued, is due partly to the deliberate anti-intellectualism of the regime, many of whose leaders have risen to power without higher education, or much of any education. Who knows more is less willing to obey. Shortage of labor and the easy accessibility of the party career without examinations or other scholastic qualifications—once the prerequisite of every calling in "diploma-minded" Germany—are also partly responsible for this truly revolutionary change in social habits. Moreover, the party has begun to train its future elite entirely outside the regular school system. On the lower level are the "Adolf Hitler Schools" as outspokenly political training institutions. Admission is granted only to students of proven loyalty and on recommendation by influential party members. These party-schools offer the best chances for a career in the party bureaucracy. On the higher level, the so-called "castles of the order" (*Ordensburg*), six at present, knead the future leaders from the magnificent material of German youth; young men, who, in the opinion of the party hierarchy, show courage, resourcefulness, and willingness to make sacrifices, are subjected to an education based on moral character and physical stamina which will, so the regime expects, form the new nobility of the ruling class of the future.

(3) Universities

The shift of educational emphasis from the learned to the practical professions is reflected most clearly in the position of the Universities. Since 1933 enrollment has been more than halved, surprisingly also in the Institutes of Technology. The steep decline in the attendance of women is explained by the fact that most academic careers of so "virile" a regime are closed to them. Admission to Universities is granted only to students who have shown their dependability in the Hitler Youth and other party activities. As to the academic teaching staff little need be said, as this aspect of double-edged Nazi intolerance is well known in foreign countries. No other personnel group was more persistently and effectively raided and purged, not only of Jews and professors married to "Non-Aryan" wives, but also of all men of liberal, democratic, and even conservative leanings. The gaps left by the dismissals and expulsions of about 60% of the faculties were filled by young partisans whose scientific qualifications were in inverse proportion to their party zeal. Naturally the turnover was more marked in fields which lent themselves to political exploitation by the regime—law, economics, history, literature, arts; while the natural sciences and medicine, it should be stated in fairness, still contain scholars of world renown who were willing to cooperate. For the traditional administrative autonomy of the Universities the leadership principle was substituted, the appointed President (*Rektor*) being the leader. Appointments, promotions, and dismissals are handled by the Ministry of Education in Berlin. All reports agree that the scholastic level has been dangerously lowered. Strange new topics—such as military science and political geography, not to forget the ubiquitous "racial sciences"—have been added to the curriculum. Moreover, scholarship and the search for objective truth are ridiculed as "liberalistic" and dangerous in the extreme. No wonder that to many of the better minds the academic career offers little attraction when freedom of scien-

tific conscience is superseded by political dictation. Efforts to improve the faculties, such as regular salaries for the lower ranks, have been in vain. The irreparable loss of the German universities is the gain of academic institutions all over the world. It is, however, an encouraging sign that the student body is beginning to distinguish between the automatism of Nazified indoctrination and the traditional values of science and learning, which in the long run cannot be withheld from the young mind.

National Socialism and Religion

Any unbiased survey of the position of the established churches (Catholic and Protestant) under the Third Reich and of the relations between the regime and religion must take cognizance of certain basic facts which are apt to be overlooked by foreign observers, particularly in countries where religion has preserved its strength as a social and moral force transcending state and society. Even before 1933, Catholicism and Protestantism were fundamentally different both in their hold on the masses and in social structure. Consequently, their attitude towards National Socialism shows wide divergence. It is misleading, to say the least, to speak of a common front of the Christian churches against the Third Reich. Moreover, in the so-called church conflict, which has been given wide publicity outside Germany, only a very small minority of Protestant pastors and devout laymen—most of them, incidentally, loyal National Socialists themselves—partake. With due reservations, there is no truth in the general contention that "religion is persecuted" by the Nazis. All reports agree that actual religious worship is unimpaired, that services and religious ceremonies are held without impediment, and that they are well attended. It is not surprising, under these circumstances, that no protest against the war was offered by the churches; on the contrary, as in 1914, official prayers invoked the help of the Lord for the victory of the German arms in their just fight.

(1) Protestantism

Protestantism of the Evangelical churches, subdivided into the Lutheran and the Reformed denominations, had been in decline in Germany long before the name of National Socialism was coined. It should be emphasized that since Luther, who himself extolled the supreme value of secular authority and enjoined obedience to the state, true to the absolutist temper of the Renaissance, Protestantism has been wedded to the state. The monarch or prince united in his person both ecclesiastical and temporal sovereignty. The alliance between state and church, the fusion of secular and spiritual aims, made a clash between them almost unthinkable. Moreover, Protestantism, since the middle of the nineteenth century, had not escaped the mechanization of the age and had lost much of its strength as a living religion. Habitually, the bourgeoisie accepted it more as a social institution than as a means of individual spiritual salvation. The urbanized masses were indifferent to both churches. The church authorities and the clergy, politically linked to the conservative parties of the right, were loyal patriots. On the whole, Protestantism was only a thin veneer over certain strata of the higher and middle classes. Once it was scratched off, a deep spiritual hollow appeared into which National Socialism, with its all-embracing claims of a patriotic revival, could easily penetrate. Thus, when the regime established itself, Protestantism was far from being fundamentally opposed to a dogma which corresponded so much to the state-veneration and super-patriotism ever-present in the Protestant attitude toward the secular authorities.

The National Socialist party program contained only a rather vague and colorless affirmation that the party "endorses positive Christianity without binding itself confessionally to a particular creed." Hence, during the first period after the seizure of power, Protestantism offered little resistance to National Socialism. Seen retrospectively, the policy of the regime toward the Evangelical churches presents the same effort for unification and centralization revealed everywhere in the Third Reich. At the beginning of this

process, a revolutionary section within the Protestant church itself, the "German Christians" (*Glaubensgemeinschaft deutscher Christen*), became the spearhead of intransigent National Socialism, very much in the same way as the National Socialist Shop cell organization assumed the lead in the labor movement. This militantly pro-Nazi section, at first officially supported, was a complete failure and is at present almost forgotten. More successful in the immediate aim of unifying the twenty and more different German state churches (*Landeskirchen*) was the activity of an intimate friend of Hitler, the army chaplain Ludwig Mueller of Koenigsberg. The official "Union of German Evangelical Churches" was ready to accept unification of all German Protestant churches under a Reich Bishop and close cooperation with the regime without any protest whatever against the crudities and cruelties of the regime. After a good deal of haggling on both sides, Mueller was appointed Reich Bishop, and a common "Constitution of the German Evangelical Church," still professing the Gospel of Jesus Christ in terms formulated in the Reformation, was published in July 1933.[2] In the elections for the National Synod held on July 23, 1933, the German Christians, under the subtle guidance of the electoral machine of the party, obtained two-thirds of the total vote. Too late some of the Protestant leaders realized that they had surrendered voluntarily to Caesar what belonged to God; that the myth of blood and soil conflicted with the love of man of the Gospel; that the racial claims were irreconcilable with the humanitarian ideals of the Savior; that the Holy Writ, in which their spiritual existence was rooted, was branded by state and party as "Jewish fabrication." Slowly a dissident movement began to fight what appeared with increasing clearness as the aim of the regime, namely, to de-Christianize the Gospel and to subordinate the church to the political purposes of the regime. The leader of the "Confessional Church Movement" became Pastor Niemoeller, a former submarine commander who had had a rather hectic career after the war and had finally been drawn into theology. He was as

[2] Published in RGB. I, p. 471, on July 14, 1933.

ardent a National Socialist as any member of the clergy. His opposition, directed at first against the heterodoxy of the "German Christians," hardened later into resistance against the intolerance of the regime in general. At any rate, at long last a center of open resistance appeared before the German public, a lasting title to admiration, since Socialists and Communists and Conservatives had meekly submitted. Now the regime resorted to open discrimination and even persecution of the rebellious minority. A considerable number of churchmen were placed in concentration camps. Support came from a rather unexpected quarter. A number of the ordinances and decrees of the Reich Bishop, penalizing the ministers of the Confessional Church by depriving them of their salaries and restricting their use of church property, were declared illegal by the Supreme Court on the basis of the existing law. Such judicial interference being unbearable to the regime, a government decree withdrew controversies arising out of the fight of the Confessional Church against the totalitarian state from the jurisdiction of the ordinary courts and transferred them to a Board appointed and instructed by the Minister of Church Affairs.[3] This high-handed breach of the rule of law turned out to be a formidable weapon against the dissident members of the Confessional Church, many of whom compromised. But chaos and unrest in the Protestant church became so widespread that finally the Minister of Church Affairs, Kerrl, was made dictator of the Protestant church, with exclusive power particularly over the funds from which the dissentient ministers drew their livelihood.[4] The Minister himself, a genuinely religious man, tried a more conciliatory policy, in order to stem the increasingly pagan tendencies of the party clique around Rosenberg and the Elite Guard. A new constitution for the Evangelical church was drawn up,[5] and elections of the Synod were even promised, though never held. But as an opposition which at-

[3] Law of June 26, 1935 (RGB. I, p. 774).

[4] Law "for the security of the German Evangelical church," Sept. 24, 1936 (RGB. I, p. 1178).

[5] Edict of the Fuehrer, of February 15, 1937 (RGB. I, p. 203).

tracted world-wide attention, the remaining rebels of the Confessional Church were dealt with by the Gestapo. They were cut off from financial assistance and forbidden to preach, to use church property, or to publish their opinions. More and more was official support thrown behind the de-Christianization efforts of the party. At present only a handful of ministers continue their heroic fight against the totalitarian state. Their chances of survival are no better than those of Leonidas against the Persians. Though their title to ultimate canonization is well established, the stand of the Confessional Church against the regime, seen from a more distant angle, is little more than a ripple in a lake. The vast majority of the Protestant clergy and of the laymen have never kicked against the pricks and were only too willing to become obsequious instruments of the Third Reich.

(2) The Catholic Church

In contrast, the relations between the Catholic Church and National Socialism reveal a gigantic struggle between two equal powers. After seven years of skirmishes and manoeuvering for position, the ultimate outcome is as yet undecided. Catholicism, deeply rooted in the masses as a living religion and simultaneously as a strong social organization, procrastinates with customary diplomatic skill which thinks in decades and centuries. On the other hand, the Third Reich, fully aware that the Roman Church is a world power of inexhaustible resources, and one strongest in defense, has carefully abstained from joining the issue with the Church.

It should be borne in mind that the Catholic Church represents in doctrine and organization a philosophy scarcely less totalitarian than National Socialism. Moreover, it is equally authoritarian in government and hierarchical in administration. Undoubtedly National Socialism has copied many principles from the strictly enforced church discipline and papal infallibility; similarities between the Jesuit and the Nazi techniques of mental drill and

indoctrination are too obvious to be missed. That the regime from the start divorced the marriage between political Catholicism of the Center party and the purely religious practice of the creed may not have been entirely unwelcome to the far-seeing clerical leaders, and decidedly enhanced the intrinsic unity of the Church. All these factors may help to explain the conscious reticence of both the Catholic Church and the National Socialist party in their reciprocal relations.

At first Catholicism showed a benevolent neutrality towards the regime, as reflected in the assent to the Enabling Act and the conclusion of the Concordat between the Holy See and the Reich in July 1933, Hitler's first diplomatic success.[6] It stipulated, for the Church, freedom of confession and of public worship; guarantee of religious instruction in all schools and establishment of confessional Catholic schools whenever demanded by the parents; Catholic organizations for purely religious, cultural, or charitable purposes without hindrance. On the other hand, the Holy See undertook the obligation of preventing political activity of priests and members of religious orders, thus endorsing the prohibition of political Catholicism desired by the National Socialists. There is scarcely any provision in favor of the church as laid down in the Concordat which the regime has not violated by its subsequent policies. Catholic Youth organizations, even of non-political character, were suppressed. By the law on the Hitler Youth, the state and the party usurped the educational monopoly. However, much less than Protestantism could the Catholic Church submit to the totalitarian claims of the conflicting Nazi "world outlook." No more forceful refutation of the racial myth and the eulogy of crude Teutonism can be found than in the famous Christmas sermons of the militant Cardinal Faulhaber of Munich (1933). For years

[6] This was the first Concordat between the two contractants in more than four centuries. Under the Republic Concordats had been concluded between Rome and Bavaria (1924), Prussia (1929), and Baden (1932). The Concordat of July 1933, concluded on July 20, 1933 between von Papen for the Reich and the Cardinal Secretary of State Pacelli, the present Pope Pius XII, is published in RGB. II, p. 679; see also law of Sept. 12, 1933 (RGB. I, p. 625).

the Catholic Church stood its ground firmly. In 1937 the regime began to wage a "white" war against Catholicism by persecution of individual priests and wholesale judicial terror. Scandalous trials were staged against scores of priests, lay officers, and members of the congregations, for currency violations and moral turpitude. These trials, widely exploited by the regime in order to stir up resentment against the church, sent hundreds of priests to prisons and concentration camps. Yet neither of the parties denounced the Concordat. Catholic loyalty was split wide open at this time and after the annexation of Austria. The Cardinal of Vienna, Innitzer, by birth a Sudeten German, who had sided with Schuschnigg against Austrian Nazism and resisted Anschluss to the last, went more than halfway to meet the new masters, once the rape of Austria was consummated. Under the common threat, a schism between the German and the Austrian prelates was finally avoided.

This new *Kulturkampf* has its lulls and respites. The regime needed Catholicism in the Spanish intervention. Moreover, the professed fight against Bolshevism is close to the heart of the Holy Father. The fire smolders under the ashes. Occasionally it flares up; but it is always carefully kept under control. Lately restrictive measures of the regime have been intensified, and an inventory of the entire church property ordered—an ominous sign after the anti-Semitic precedent. Yet, in spite of the warfare conducted with all resources of the regime, the tower of the Catholic Church stands unshaken. The vicious propaganda instilling into the Hitler youth hatred against "the black moles" and the "Jewish" foundation of the Roman church makes little impression on Catholic minds. With the addition of Catholic Austria a solid block of more than thirty millions of devout Catholics within the Reich must be reckoned with. The conquest of Czechoslovakia and of Poland, both countries deeply devoted to the church, has added to the cohesive strength of Catholic unity within the German *Lebensraum*. Persecution has drawn the flocks closer to the shepherds. The regime has found its equal in a philosophy of life which can draw on centuries of experience in mass psychology and "guidance of man."

It is unlikely that the Third Reich, in its present bid for world power, will dare to rush the final showdown with the real world power, the Catholic Church. On the contrary, it may even be expected that, once the tumult and shouting of the present age has died down, the Catholic Church will be on the winning side.

(3) Neo-Paganism

Not content with subjugating completely the Protestant church and with destroying Catholicism as a political entity, the regime pushed forward on the path to de-Christianize religion altogether and put in the place of the established Christian creeds a neo-pagan faith tailored to measure the crude romanticism of its underlying dogmas. The neo-pagan doctrine tries hard to substitute for Christianity the genuine German faith, liberated, so it is argued, from the residues of the "Jewish-Christian" morality. The Christian dogma, derived from Jewish spiritual sources, is an oriental, Asiatic creed, not compatible with the virtues of the German blood and the German race, inadequate for the mysteries of the Aryan and Nordic soul. The Sermon on the Mount is an infamous humiliation of upright stalwart Nordic virility. Ethics are not the values of good and evil, but only of what is useful and what is harmful to the greatness of the German nation. Christianity, international and pacifist, destroys the militancy of self-defense and the eagerness for world conquest. Jesus Christ is the incarnation of all that the Germanic will power despises. Wickedness and sin are artificial inventions of the Jewish-Christian moralists in order to prevent man from becoming like God. The true savior of Germanhood, he who has instilled life and power into the inert corpse of the nation, emasculated by the humanitarian sophistries of the Republic, is the man Adolf Hitler. He is the Messiah sent to the Germans in their deepest humiliation, to rejuvenate them and to lead them to that place in the world which they deserve by virtue of their mission as a master-race born to rule.

In this process of de-Christianization and paganization, two

interrelated, though not identical, trends are visible. Both have in common their hatred of Jewish-Christian ethics and religion, but they differ in their ultimate aims. On the one hand, the movement is outspokenly neo-pagan in its efforts to revive Teutonic and Germanic rites. There are not yet temples where Wotan and Thor are worshiped; and these may not come. But at least a substitute is found for the Christian symbolism and its infiltration into daily life. Christian holidays and Christian rituals have their Teutonic equivalents in May Day, solstice, harvest day. Pagan festivals with sun rites, Viking reminiscences, and other pseudo-historical rigmarole, are semi-officially celebrated by the regime. Baptisms, weddings, and funerals are held in what is believed to correspond to ancient rites. The calendar is thoroughly paganized.[7] At first neo-paganism started from a more spiritual foundation in the so-called "German Faith Movement," led by W. Hauer, a Christian theologian well versed in the requirements of a pure Aryan and de-Christianized faith and advocating a cult of nature mysteries. His ideas were later taken up by influential sections of the party, in particular the Elite Guard, the leadership of the Hitler Youth, and Alfred Rosenberg, the "Supreme Director of Cultural Activities" of the party. In the Hitler Youth the neo-pagan cult begins to fill the gap left by the deliberate erosion of Christianity; and it has, appalling as it may seem to the older generation, a strange attraction for the impressionable youthful mind. Backed by the showmanship of the regime and administered as a deliberate antidote to Christianity, it should by no means be dismissed too lightly. The tempo of this revolutionary age has been speeded up tremendously. Mental processes which formerly grew slowly through decades and even centuries, now develop into maturity within the compass of a few years. What appears artificial and slightly ridiculous today might become spontaneous and deeply venerable tomorrow.

[7] Evidently these practices were inaugurated by the preachings of Ludendorff, his wife, and their "Tannenberg Bund."

But the breaking down of the dykes of positive Christianity opened the gates to a more formidable tidal wave, which threatens to engulf the Germans and the world. The Third Reich thrives in a new spiritual climate which is wholly inaccessible to Western rationalization. What we witness in Germany today is the emergence of a new religion—a political religion, to be sure, but a genuine religion nonetheless. It is the religion of the nation as the supreme value, and of Hitler as the incarnation of the nation, which has created an atmosphere of quasi-religious exaltation and of incalculable emotionalism. Governmental institutions and their dogmatization can be assessed correctly only in terms of a political theology. Many causes contribute to this situation, with which the Western countries have to reckon whether they like it or not. By nature and tradition the Germans are inclined to worship the strong man and to prostrate themselves before the power of the state. German history, seen retrospectively, is an endless chain of frustrations and humiliations, of which the Versailles Treaty and the period of the Republic is skillfully depicted as the most abject. In building up an irresistible propaganda, the person of Hitler, the unknown soldier of the war, rising magically from the depths of the people, a poor man coming to the poor, is imbued with the supernatural powers of the Savior himself, raising despairing and wretched Germany to the heights of the most feared nation in the world. Even to the uninitiated his successes appear almost miraculous, although on closer observation they are merely the application of the same tactics which enabled him to overcome the disunited parties of the Republic. But to the Western world, disunited as it was for years, the repetition itself is the mark of his genius. Eradication of unemployment; teeming prosperity; restoration of the "military sovereignty"; "destruction of the Treaty of Versailles"; the "home-coming" of the Saar, Austria, the Sudetenland and Memel through "peaceful" means and without shedding blood except that of the innocent victims after

the conquest; the incorporation of Bohemia and Moravia, and, as could be safely expected, of more land once German; the brilliant campaign against Poland while the Western powers were pounding meekly at the iron gates of the West Wall—all these successes symbolize the national regeneration and promise the impending millennium which will compensate future generations for the sacrifices of the living generation. The past glory of the First Reich is resurrected in the Third Reich. The mystical notion of *Lebensraum,* no longer a term of geography, but of theology, appears as the reincarnation of the dream deeply imbedded in German blood and history: *Weltmachtstreben* ("urge for world power"). Little wonder that Hitler himself is raised to the level of deity. Deification of the nation and of the "Fuehrer" is symbolically and materially fused into one. The ever-present strain of mysticism in the German character is the root from which this new political religion rises. It matters little to those under the spell of the new theology that Hitler is a mortal human being. So was Jesus Christ or Mohammed. It matters little that the ruling oligarchy, power-ridden, corrupt, cynical, and swaggering, may not share the religious intoxication they have provoked in the masses. What matters are the forces of mass-action unleashed by the apprentice-sorcerers. They invented the formula, and civilization must foot the bill. The world witnesses a new version of the *Furor Teutonicus,* which is all the more formidable since it is streamlined by the modern discoveries of mass psychology and controlled mass emotionalism, carried forward to its ultimate goal through a governmental technique of unparalleled efficiency and ruthlessness.

CONCLUSION

THE THIRD REICH AND THE WAR

Why War Was Inevitable

For a long time those apprised of the dynamic nature of National Socialism as a political religion could not fail to be haunted by premonitions as to the final outcome of the most gigantic experiment in mass control through emotionalism of which history knows. One by one the alternatives to war, offered with more than generosity through the "policy of appeasement," were discarded deliberately by the regime and war began to loom large as a certainty, although Hitler's shrewd tactics—in this age of stark naked opportunism curiously enough called diplomacy—left the world in suspense as to whom the German war juggernaut ultimately would be set in motion against. For economic as well as psychological reasons war was bound to come. If it was to be avoided Hitler was confronted with a task as formidable as that of winning any war. For years the Third Reich had bent every nerve, had strained every muscle on preparedness for the coming war. If the armament boom had been stopped, the artificial prosperity would have disappeared like a mirage. Controlled inflation would have become disastrously open inflation, and the scourge of unemployment could not have been banned by all the loans of the world. International markets are not capable of absorbing the products of the German industrial machine geared up, under the Four-Year Plan, to the highest pitch. Unemployment and inflation were the specters which stood behind a failure of the regime

to obtain, by warlike pressure without going actually to war, what it aimed at, namely the redistribution of the riches of the world, in which the lion's share falls to Germany. Hitler had staked everything on one card. If it failed the game was lost. Already in peacetime the Third Reich was built upon the abnormality of war economy. Abnormality is the only climate in which a "dynamic" regime can thrive. But abnormality cannot be continued forever. No nation—the docile, hard-working Germans not excepted—has the stamina to sustain it over an indefinite period. Hence, the only alternative to warlike pressure was war itself. Trapped by his own policy Hitler had to choose war. On September 1, 1939, the German armies invaded Poland. On September 3, 1939 Germany was at war with England and France.

Germany under War Conditions

For obvious reasons there is little reliable information available about the internal conditions in Germany since the beginning of the war. On the whole it may be said that a society designed already in peacetime for serving the ends of totalitarian war needs few if any adjustments of its governmental structure and of the social conditions determining daily life in actual war. Germany has lived, during recent years, on the basis of blueprints which have successfully converted economic strength into military strength. Little more was needed except to deepen the lines drawn already before. Only a few items may be mentioned here. Food rationing is more strict and resembles closely the regulations prevailing in the last stages of the World War. Control of radio reception is strengthened; men refusing to serve in arms are shot; the latent warfare between the churches and the regime has been called off; working hours, even for children below the age of twelve, have been increased; gold holdings have to be offered to the government; Jewish doctors and technicians living abroad are invited to return to the "fatherland" on promise of repatriation

and restoration of their confiscated property. Whether such offers are made more tempting by the announcement that separate bomb-proof shelters are designated for Jews and "Aryans" remains open to doubt. Moreover, to all appearances the army command sees to it that National Socialist propaganda in radio and press and other party activities is relegated to the background. Old-fashioned patriotism has precedence over National Socialism. It may well be that the most notable victim of the war is the National Socialist "movement."

Innovations in Governmental Structure

(a) Hitler's Eventual Successors

Two innovations of far-reaching importance have been added to the governmental structure proper of the Third Reich. In the first place, Hitler, in his speech before the Reichstag on September 1, 1939, named, in accordance with the Succession Act of 1934,[1] his eventual successors as the "Fuehrer" of the German Reich and people. The passages of his address containing this solution of a problem on which speculation has been ripe since the inception of the regime should be quoted *verbatim:*[2] "Should anything happen to me in the struggle then my first successor is Party Comrade Goering; my next successor is Party Comrade Hess. You would then be under an obligation to give to them as Fuehrer the same blind obedience and loyalty as to myself. Should anything happen to Party Comrade Hess then by law the Senate will be called, and will choose from its midst the most worthy—that is to say the bravest—successor." Neither the authority which, in the absence of a "legitimate" "Fuehrer," would enact the law, nor the nature and character of this "Senate" are determinable at the present moment.

[1] See *supra*, p. 25.

[2] Quoted from the (London) "Times" of September 2, 1939, p. 9.

(b) The Supreme Defense Council

An equally important change in the constitutional set-up of the Third Reich is the establishment of a permanent Council of Ministers for the Defense of the State,[8] copied ironically enough, it seems, from a Czechoslovak law of 1936. For the time of the present political tension abroad and "for the uniform management of the administration and economic affairs" a Ministerial Council is formed, under the chairmanship of Goering, and comprising as permanent members the following men holding key positions in the inner government circle: Hess (Deputy-Leader of the "Fuehrer"); Dr. Frick (Minister of the Interior); Funk (Minister of Economics and President of the Reichsbank), the latter two styled "Plenipotentiary-General" (*Generalbevollmaechtigter*) for their respective functions; Dr. Lammers (Reich Minister and Chief of the Reich Chancellery); General von Keitel (Defense Minister and Chief of the Supreme Command of the Armed Forces). The chairman is empowered to add other members by cooptation. This new group may issue decrees with force of law "in case Hitler himself does not decree the passing of a law by the Reich cabinet or the Reichstag." While this allusion to the Reichstag is a particularly blunt revelation of the rubber-stamp character of that body, the essential innovation consists in that a new agency of supreme legislative powers is installed, equal to the powers of the "Fuehrer" himself since the Council may pass what is called a law, according to the German word-magic, without consultation or cooperation of the Reich cabinet or even the signature of the "Fuehrer" himself. No member of the inner circle of the directorate of the NSDAP is included in the group except Hess, a fact which is an additional indication of an at least temporary eclipse of the party. Once more the regime must be credited with having found a simple and happy solution for a fundamental difficulty

[8] Edict of the Fuehrer concerning the formation of a Ministerial Council for Reich Defense, of August 30, 1939 (the exact quotation of the RGB is not yet available in this country).

which, during the last World War, beset the relations between the political and the military leadership engaged in a constant tug-of-war behind the scenes. Two military men of importance are grouped together in the Council with four leading men of the civilian administration, thus guaranteeing, to all expectations, speedy and concerted action between the two branches concerned with internal administration under war conditions. No serious conflict between them is likely to arise while the "Fuehrer" himself is left free from administrative work, in order to devote his energies to the higher strategy in the political and military field.

Behind the Veil of the Future

What will be the future? Only history can tell. However, one may venture some prognostications not entirely devoid of factuality, when based on what is known of the techniques and ideologies of the Third Reich.

If Hitler wins the war against the West, the ideas of 1789, and with them the light of humanism, will be extinguished in Europe for a long time to come. It would be scarcely less calamitous for the future of civilization if, the forces being even, a stalemate ensues. Tantamount to a victory, it would entrench the Third Reich even more strongly.

Another point should be emphasized. Even if war continues over a long period, it is more than unlikely that the regime will fall through internal rebellion or revolution. Anyone who is aware of the perfected instruments of mass domination, and of the determination of the ruling clique to use them when their hold over the people is threatened, will dismiss such hopes as wishful thinking, all predictions to the contrary. It should not be forgotten that a machine gun mounted on a tank can easily hold at bay an unarmed mass of rioters on a public square, and that a squadron of loyal airplanes can cow into submission a revolting town. Moreover, the war against Poland, extremely popular in Germany and won without too high a price, is a shot-in-the-arm

which has vitalized even many of those who were fundamentally opposed to the internal policies of the regime.

But no dictatorship has ever survived a lost war. It is, therefore, safe to predict that the people—and today the people are both the soldiers in arms and the housewives on the home front—would rise against their masters only if the regime is shaken in its foundations by serious blows on the battlefield and if at the same time Germany, which has not seen war devastation inside her borders for more than a hundred years, experiences the full visitations of modern war on her own land. Revolution will occur, to all expectations, only if and when the victorious armies of the Western powers pour into Germany and allow the people to burn out the regime to the roots.

Altogether idle, however, is speculation as to what will be the shape of things to come after the defeat. Will there be a Fourth Reich and can German unity be preserved after a lost war, or will Germany break, or be broken into her historical tribal units? Will Brown Bolshevism merely turn into Red Bolshevism, thus justifying Stalin's astute policies? Or can the Germans be induced, by generous peace conditions, to cooperate, as a free nation, perhaps under a restored monarchy, in the community of nations of a reborn Europe? The answers are in the lap of the Gods.

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